

the employer; allowances as part of the wage rates for board, lodging and other facilities or services furnished by the employer and used by the employees. Regulations issued by the department pursuant to this section shall include, but are not limited to, bonuses; ~~special rates for employees under the age of 18, which rate shall not be more than 90 percent of the minimum wage established in section 177.24;~~ part-time rates; special pay for special or extra work; procedures in contested cases; other facilities or services furnished by employers and used by employees; and other special items usual in a particular employer-employee relationship. Regulations required by this subdivision shall be established by November 1, 1973.

Sec. 3. This act shall be effective October 1, 1976.

Approved April 3, 1976.

CHAPTER 166—H.F.No.525

[Coded in Part]

An act relating to state government; creating a department of transportation; prescribing its powers, duties and functions; transferring certain functions of the department of aeronautics, highways and public service; transferring certain functions of the public service commission; appropriating money; amending Minnesota Statutes 1974, Sections 216A.05; 216A.06; 216A.07; 216A.08; 218.011; 218.021; 218.025; 218.031, as amended; 218.041; 218.071; 219.03; 219.04; 219.14; 219.17; 219.19; 219.20; 219.23; 219.24; 219.25; 219.26; 219.27; 219.28; 219.383; 219.401; 219.41; 219.42; 219.43; 219.46, Subdivisions 1, 4 and 7; 219.47; 219.51; 219.52; 219.54; 219.55; 219.562, Subdivision 3; 219.65; 219.681; 219.70; 219.71; 219.741; 219.742; 219.751; 219.85; 219.86; 219.87; 219.92; 219.93; 219.97, Subdivisions 2 and 12; 221.011, Subdivisions 1, 2, 15, and by adding subdivisions; 221.021; 221.031, Subdivision 1; 221.041; 221.051; 221.081; 221.091; 221.101; 221.111; 221.161; 221.171; 221.181; 221.201; 221.231; 221.261; 221.271; 221.281; 221.295; 221.296, Subdivisions 2, 3, 6 and 7; 221.55; 221.61; 221.62; 221.63; 221.65; 221.66; 221.68; 222.01; 222.34; 222.38; 222.40; 222.41; 222.44; 222.45; 360.017, Subdivision 1; and Minnesota Statutes, 1975 Supplement, Sections 43.09, Subdivision 2a; 219.39; 219.40; 219.662, Subdivisions 5, 6 and 7; 221.011, Subdivision 22; 221.061; 221.071; 221.121; 221.131; 221.141; 221.151; 221.221; 221.291; 221.293; 221.296, Subdivisions 4, 5 and 8; and 221.64; repealing Minnesota Statutes 1974, Sections 161.02; 161.03; 169.27; 218.051; 218.061; and 360.014.

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

Section 1. **[174.01] DEPARTMENT OF TRANSPORTATION; CREATION; POLICY.** In order to provide a balanced transportation system, which system includes aeronautics, highways, motor carriers, ports, public transit, railroads and pipelines, a department of transportation is created. The department shall be the principal agency of the

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state for development, implementation, administration, consolidation, and coordination of state transportation policies, plans and programs.

Sec. 2. **[174.02] COMMISSIONER OF TRANSPORTATION; POWERS; DUTIES.** Subdivision 1. APPOINTMENT. The department shall be supervised and controlled by the commissioner of transportation, who shall be appointed by the governor with the advice and consent of the senate, for a four year term which shall coincide with the term of the governor and until his successor is appointed and qualified. The governor may remove the commissioner at any time for cause after notice and hearing unless otherwise provided for in chapter 15.

Subd. 2. **UNCLASSIFIED POSITIONS.** The commissioner may establish four positions in the unclassified service at the deputy and assistant commissioner, assistant to commissioner or personal secretary levels. No more than two of these positions shall be at the deputy commissioner level.

Subd. 3. **DEPARTMENTAL ORGANIZATION.** The commissioner shall organize the department in a manner recognizing the administrative and staffing needs of all modes of transportation within his jurisdiction, and shall employ personnel as he deems necessary to discharge the functions of the department. The commissioner shall adopt an affirmative action plan for the department in order to insure that department hiring encourages the selection of members of groups of persons who because of unfair or unlawful discriminatory practices have in the past been denied equal employment opportunity. This plan need not be promulgated as a rule, but it shall be approved by the commissioner of personnel. The plan shall provide that the affected groups of persons shall constitute at least the same proportional number of employees in the department as they constitute in the total employment in state government; provided that this limitation shall expire in respect to an affected group when the commissioner of personnel certifies that members of that affected group are employed in the department in the same proportion as they constitute in the total employment in state government.

Subd. 4. **APPEARANCES IN PUBLIC TRANSPORTATION MATTERS.** The commissioner may appear as a party on behalf of the public in any proceeding or matter before the interstate commerce commission, the civil aeronautics board or any other agency or instrumentality of government which regulates public services or rates relating to transportation or other matters related to the powers and responsibilities of the commissioner as prescribed by law. The commissioner shall appear as a party on behalf of the public in proceedings before the public service commission as provided in Minnesota Statutes, Chapters 218, 219, 221, and 222 on matters which directly relate to the powers and duties of the commissioner or which substantially affect the statewide transportation plan. On all other transportation matters the commissioner may appear before the public service commission.

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Subd. 5. COOPERATION. To facilitate the development of a unified and coordinated intrastate and interstate transportation system:

(a) The commissioner shall maintain close liaison, coordination and cooperation with the private sectors of transportation, the upper great lakes seaway development commission corporation, and any multi-state organization involved in transportation issues affecting the state;

(b) The commissioner shall participate in the planning, regulation and development of the port authorities of the state; and

(c) The commissioner or his designee shall be a nonvoting, ex officio member of the metropolitan airports commission, as organized and established under Minnesota Statutes, Sections 473.601 to 473.679.

Sec. 3. [174.03] DEPARTMENT OF TRANSPORTATION; DUTIES OF COMMISSIONER. Subdivision 1. STATEWIDE TRANSPORTATION PLAN; PRIORITIES; SCHEDULE OF EXPENDITURES. In order to best meet the present and future transportation needs of the public, to insure a strong state economy, to make most efficient use of public and private funds, and to promote the more efficient use of energy and other resources for transportation purposes, the commissioner shall:

(a) Three months after notification that the department is ready to commence operations and prior to the drafting of the statewide transportation plan the commissioner shall hold public hearings as may be appropriate solely for the purpose of receiving suggestions for future transportation alternatives and priorities for the state. The metropolitan council, regional development commissions and port authorities shall appear at the hearings and submit information concerning transportation related planning undertaken and accomplished by these agencies. Other political subdivisions may appear and submit such information at the hearings. These hearings shall be completed no later than six months from the date of the commissioner's notification;

(b) Develop, adopt, revise and monitor a statewide transportation plan, taking into account the suggestions and information submitted at the public hearings held pursuant to clause (a). The plan shall incorporate all modes of transportation and provide for the interconnection and coordination of different modes of transportation. The commissioner shall evaluate alternative transportation programs and facilities proposed for inclusion in the plan in terms of economic costs and benefits, safety aspects, impact on present and planned land uses, environmental effects, energy efficiency, national transportation policies and priorities and availability of federal and other financial assistance;

(c) Based upon the statewide transportation plan, develop statewide transportation priorities and schedule authorized public capital improvements and other authorized public transportation expenditures

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pursuant to the priorities;

(d) Complete the plan and priorities required by this subdivision no later than July 1, 1978. Upon completion, the commissioner shall promulgate the plan and priorities as a rule in accordance with Minnesota Statutes, Chapter 15. Upon promulgation of the plan and priorities, the commissioner shall prepare and periodically revise, as necessary, the schedule of authorized public transportation expenditures. The schedule, and revisions thereto, need not be promulgated as a rule but shall not be prepared or revised without public hearings.

Subd. 2. IMPLEMENTATION OF PLAN. After the adoption of the statewide transportation plan, the commissioner and the public service commission shall take no action inconsistent with that plan. Notwithstanding the foregoing, the commissioner and the commission shall have authority to promulgate emergency rules pursuant to section 15.0412, subdivision 5, if necessary to respond to transportation emergencies which may require an immediate temporary response inconsistent with the statewide plan.

Subd. 3. RELATIONSHIP WITH NATIONAL AND LOCAL PLANS. The statewide plan shall recognize established national transportation policies. The plan shall include matters of local or regional concern if this inclusion is needed to insure a comprehensive, statewide perspective on transportation policies and priorities. The commissioner shall recognize and attempt to accommodate the local or regional transportation plans. However, the statewide plan shall supersede a local or regional plan to the extent inconsistent on a matter which the commissioner demonstrates is of statewide concern. A political subdivision may challenge the commissioner's determination that a portion of a local or regional plan is superseded by the statewide plan. The subdivision shall institute the challenge by filing a petition with the commissioner within 30 days after being notified by the commissioner that the local or regional plan is superseded. The challenge shall be resolved by the commissioner as a contested case pursuant to chapter 15.

Subd. 4. OTHER DUTIES. The commissioner shall:

(a) Construct and maintain transportation facilities as authorized by law;

(b) Cooperate with, and may provide technical and financial assistance to, the metropolitan council and regional development commissions in the regional transportation planning process, in accordance with mutually acceptable terms and conditions;

(c) Cooperate with and may provide planning and technical assistance upon the request of any political subdivision or other governmental agency in accordance with mutually accepted terms and conditions, except as otherwise restricted by law; and

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(d) Develop, revise and monitor a statewide rail transportation plan as part of the statewide transportation planning process, including a study and evaluation of alternative methods for insuring adequate and economical transportation of agricultural commodities, supplies and other goods to and from rural areas of the state. The commissioner shall include in the study consideration of rail line improvement programs including those adopted or proposed in other states. Based on the study and evaluation, the commissioner shall recommend an appropriate state assistance program to the governor and the legislature no later than July 1, 1978. Upon completion of each stage of any rail improvement study conducted by a state department or agency, the information developed by the study shall be made available to the commissioner.

Subd. 5. REGIONAL TRANSPORTATION PLANNING. The metropolitan council, pursuant to Minnesota Statutes, Section 473.146, and the regional development commissions shall develop regional long-range transportation policy plans in cooperation with the commissioner and local units of government. Upon promulgation of the statewide transportation plan, and periodically as necessary thereafter, each regional policy plan shall be reviewed and amended, if necessary, by the appropriate regional agency to insure that the regional policy plan is not in conflict with the statewide transportation plan.

Subd. 6. ECONOMIC, SOCIAL, AND ENVIRONMENTAL EFFECTS. The commissioner shall consider the social, economic and environmental effects resulting from existing and proposed transportation facilities and shall make continuing efforts to mitigate any adverse effects. The commissioner shall utilize a systematic, interdisciplinary approach which shall insure the integrated use of the natural, social and physical sciences and the environmental design arts in plans and decisions which may affect the environment.

Subd. 7. ENERGY CONSERVATION. The commissioner, in cooperation with the Minnesota energy agency, shall evaluate all modes of transportation in terms of their levels of energy consumption. The director of the energy agency shall provide the commissioner with projections of the future availability of energy resources for transportation. The commissioner shall use the results of this evaluation and the projections to evaluate alternative programs and facilities to be included in the statewide plan and to otherwise promote the more efficient use of energy resources for transportation purposes.

Subd. 8. SALARIES AND EXPENSES. Salaries and expenses of the department relating to highway purposes shall be paid from monies available in the trunk highway fund. The funds provided in Minnesota Statutes, Sections 360.011 to 360.076 and 360.301 to 360.91 shall be expended by the commissioner of transportation in accordance with the purposes prescribed by those sections. Funds appropriated pursuant to the authority conferred by any constitutional article shall be expended in conformity with the purposes and uses authorized

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thereby.

Sec. 4. [174.04] **FINANCIAL ASSISTANCE; APPLICATIONS; DISBURSEMENT.** Subdivision 1. REVIEW OF APPLICATION. Any state agency which receives an application from a regional development commission, metropolitan council, public transit commission, airport commission, port authority or other political subdivision of the state for financial assistance for transportation planning, capital expenditures or operations to any state or federal agency, shall first submit the application to the commissioner of transportation. The commissioner shall review the application to determine whether it contains matters that substantially affect the statewide transportation plan and priorities. If the application does not contain such matters, the commissioner shall within 15 days after receipt return the application to the applicant political subdivision for forwarding to the appropriate agency. If the application contains such matters, the commissioner shall review and comment on the application as being consistent with the plan and priorities. The commissioner shall return the application together with his comments within 45 days after receipt to the applicant political subdivision for forwarding with the commissioner's comments to the appropriate agency.

Subd. 2. DESIGNATED AGENT. A regional development commission, metropolitan council, public transit commission, airport commission, port authority, or any other political subdivision of the state may designate the commissioner as its agent to receive and disburse funds by entering into an agreement with the commissioner prescribing the terms and conditions of the receipt and expenditure of the funds in accordance with federal and state laws and regulations.

Subd. 3. EXCEPTIONS. The provisions of this section shall not be construed as altering or amending in any way the funding procedures specified in Minnesota Statutes, Sections 161.36, 360.016 or 360.0161.

Sec. 5. [174.05] **POLLUTION CONTROL AGENCY; REGULATIONS AND STANDARDS.** Subdivision 1. NOTIFICATION BY POLLUTION CONTROL AGENCY. The director of the pollution control agency shall inform the commissioner of transportation of all activities of the pollution control agency which relate to the adoption, revision or repeal of any standard or rule concerning transportation established pursuant to Minnesota Statutes, Section 116.07. Upon notification the commissioner shall participate in those activities. Participation may include, but is not limited to, access to all pertinent information collected or compiled by the pollution control agency and transmittal to the director of the pollution control agency of information and expert opinions concerning the ability of affected modes of transportation to accomplish the desired objectives and the impact that alternative methods of attaining those objectives would have on present or planned transportation systems in the state.

Subd. 2. COMMISSIONER TO SUBMIT REVIEW OF PROPOSED

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RULES. Prior to public hearings on any rule concerning transportation proposed by the pollution control agency, the commissioner shall submit a written review of those rules, including an analysis of their impact upon the state's transportation system, and may propose alternative regulations or standards. This report shall be made part of the record of the hearing and shall be made available to any person prior to the hearing.

Subd. 3. REPORT BY POLLUTION CONTROL AGENCY. Upon the adoption, revision or repeal of a rule concerning transportation, the director of the pollution control agency shall publish a written report of the manner in which the adopted rule reflects consideration of the factors specified in Minnesota Statutes, Section 116.07, Subdivision 6, and the specific issues raised in the commissioner's report.

Sec. 6. TRANSFER OF POWERS. Subdivision 1. DEPARTMENT OF HIGHWAYS. All powers, duties and functions heretofore vested in or imposed on the commissioner of highways or the department of highways by Minnesota Statutes, Chapters 160, 161, 162, 163, 164, 165, 167, 169, 173, or sections 473.401 to 473.451 or any other law relating to the duties and powers of the commissioner of highways are transferred to, vested in, and imposed on the commissioner of transportation. The position of the commissioner of highways and the department of highways as heretofore constituted are abolished.

Subd. 2. DEPARTMENT OF AERONAUTICS. All powers, duties, and functions heretofore vested in or imposed on the commissioner of aeronautics or the department of aeronautics by Minnesota Statutes, Sections 360.011 to 360.076, 360.301 to 360.73, 360.81 to 360.91 or any other law relating to the duties and powers of the commissioner of aeronautics are transferred to, vested in, and imposed on the commissioner of transportation. The position of the commissioner of aeronautics and the department of aeronautics as heretofore constituted are abolished.

Subd. 3. DEPARTMENT OF PUBLIC SERVICE. All powers, duties and functions heretofore vested in or imposed on the department of public service, the public service commission or the director of the department of public service by Minnesota Statutes, Sections 216A.10 to 216A.13 are transferred to, vested in, and imposed on the commissioner of transportation.

Subd. 4. STATE PUBLIC TRANSIT FINANCIAL ASSISTANCE. All duties and responsibilities assigned to the state planning agency under Laws 1974, Chapter 534 or Laws 1975, Chapter 203, Sections 9 to 11, are transferred to the commissioner of transportation.

Subd. 5. TRANSFER APPROVAL OF COMMISSIONER OF ADMINISTRATION. Any and all transfers of department of public service personnel, records and funds to the department of transportation, made pursuant to the provisions of this section, shall be subject to the

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approval of the commissioner of administration.

Subd. 6. EFFECT OF TRANSFERS TO THE DEPARTMENT OF TRANSPORTATION. (a) The department of transportation shall be deemed a continuation of the former department or agency as to those matters within the jurisdiction of the former department or agency which are assigned or transferred to the department by this act, with the same force and effect as though the functions, powers or duties of the agency or department had not been assigned or transferred, and shall not be held to constitute a new authority for the purpose of succession to all rights, powers, duties and obligations of the former department or agency, as constituted at the time of the assignment or transfer. All rules heretofore promulgated under authority of a power, duty or responsibility transferred by this act to the commissioner of transportation or to the department of transportation shall remain in full force and effect until modified or repealed.

(b) Any proceeding, court action, prosecution, or other business or matter which is pending on the effective date of this section and which was undertaken or commenced by a department or agency whose functions, powers or duties are transferred to the department of transportation by this act, may be conducted and completed by the department of transportation in the same manner, under the same terms and conditions, and with the same effect as though it were undertaken or commenced and conducted or completed by the former department or agency prior to the transfer.

(c) Except as otherwise provided in this act, the head of a department or agency whose functions, powers and duties are transferred to the department of transportation by this act shall transfer all contracts, books, maps, plans, papers, records, and property of every description within his jurisdiction or control to the commissioner of transportation. The commissioner shall receive from the public service department all documents, records and papers necessary to perform his duties.

(d) All unexpended funds appropriated to any department or agency for the purposes of any of its functions, powers, or duties which are transferred by this act to the department of transportation are hereby transferred to the department of transportation. When the functions, powers and duties that are affected by this act are the responsibility of the department of transportation and another department or agency, the commissioner of administration shall allocate any unexpended appropriation to the department or agency between the department of transportation and the other departments or agencies affected, as may be appropriate.

(e) Except as otherwise provided in this act, all persons employed in the classified service by a department or agency to perform any of the functions, powers or duties which are transferred by this act to the department of transportation, are transferred to the department. The

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positions of all persons who are employed in the unclassified service by a department or agency to perform any of the functions, powers or duties which are transferred by this act to the department, are abolished. Any person in the unclassified civil service whose position is abolished by this act and who is not appointed to an unclassified position authorized by this act may be otherwise continued in the unclassified service in the department of transportation, but for a period not to exceed 12 months from the date on which the department commences operation. Any unclassified position created for this purpose shall not be included in those authorized by section 2, subdivision 2, or section 8 of this act. Nothing herein shall be construed as abrogating or modifying any rights now enjoyed by affected employees under the terms of an agreement between an exclusive representative of public employees and the state or one of its appointing authorities.

Subd. 7. LEGISLATIVE INTENT; PROPOSALS FOR IMPLEMENTATION. It is the intent of the legislature that gas, oil, slur and other pipelines, long distance conveyor belt systems and other modes of transportation not now regulated by the state be constructed and operated in a manner that best serves the public good and complements other means of transportation. The commissioner of transportation shall submit to the governor and the legislature, no later than January 1, 1978, specific proposals, drafted in bill form if appropriate, to implement this policy within the areas of responsibility assigned to the department of transportation.

Subd. 8. RECOMMENDATIONS FOR STATUTORY REVISIONS. The commissioner shall submit, together with the proposals required by subdivision 7, specific recommendations of language to update all statutory sections which relate to the operation of his department and are in need of revision. The commissioner's report shall give special consideration to sections affecting rule-making and public hearings, to language or provisions rendered obsolete by passage of time, and to overall clarity and brevity of the statutes.

Sec. 7. REVISOR OF STATUTES; TERMINOLOGY CHANGES. In the next and subsequent editions of Minnesota Statutes, the revisor of statutes shall make the necessary changes in terminology to record the transfers of functions, powers and duties which are provided by this act from a department or agency to the department of transportation.

Sec. 8. [174.10] PROCEEDINGS BEFORE DEPARTMENT. Subdivision 1. The department or the public service commission, as appropriate, in any contested case shall give reasonable notice to representatives of associations or other interested groups or persons who have registered their names with the department for that purpose, to all parties and to cities and municipalities which the department or commission deems to be interested in the proceeding. The commissioner or commission may prescribe an annual fee to be credited to the general fund, which fee shall be a charge to all registered groups or persons. This charge is to cover the out of pocket costs involved in giving such

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notice.

Subd. 2. In all matters over which the commissioner has regulatory, or enforcement authority, he may issue subpoenas and compel the attendance of witnesses and the production of all necessary papers, books, records, documents, and other evidentiary material. Any person failing or refusing to appear to testify regarding any matter about which he may be lawfully questioned or to produce any papers, books, records, documents, or other evidentiary materials in the matter to be heard, after having been required by a subpoena of the commissioner to do so may, upon application by the commissioner to the district court in any district, be ordered to comply therewith. A hearing examiner in a rule-making or contested case proceeding may, on behalf of the commissioner, issue subpoenas, administer oaths to witnesses, and take their affirmations. Depositions may be taken within or without the state by the commissioner or his designee in the manner provided by law for the taking of depositions in civil actions. A subpoena or other process or paper may be served upon any person named therein, anywhere within the state by any officer authorized to serve subpoenas or other process or paper in civil actions, with the same fees and mileage and in the same manner as prescribed by law for service of process issued out of the district court of this state.

Subd. 3. In proceedings under chapters 218, 219, 221, and 222 which involve a hearing before the public service commission, the matter shall be investigated and prosecuted before the commission by the commissioner of transportation representing the interests of the people of this state. Unless otherwise specified by statute, all hearings shall be conducted as a rule-making proceeding or as a contested case, as appropriate, in accordance with chapter 15. Any person aggrieved by a final decision of the commissioner in a contested case may appeal in the manner provided by Minnesota Statutes, Section 15.0424. An appeal shall be governed by Minnesota Statutes, Chapter 15.

Subd. 4. If, in any proceeding before the commission or the commissioner of transportation relating to or involving the reasonableness of rates, fares, charges, or classifications, the commission or the commissioner of transportation decide that they do not have jurisdiction because the traffic covered by the rates, fares, charges, or classifications is interstate commerce, the commission or the commissioner of transportation, as appropriate, shall issue an order dismissing the proceeding and stating the ground of the dismissal, which order may be appealed from in like manner as other appealable orders.

Sec. 9. Minnesota Statutes, 1975 Supplement, Section 43.09, Subdivision 2a, is amended to read:

Subd. 2a. **ADDITIONAL UNCLASSIFIED POSITIONS.** Notwithstanding any other law to the contrary, the personnel board, upon the request of the governor, is hereby authorized to establish permanent unclassified positions, or to unclassify previously classified positions,

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provided that:

(1) Positions so established involve only deputy or assistant heads of departments or agencies, or director level positions which are not specifically established by law, and who are appointed by and report directly to a head of a department or agency who is required by law to be appointed by the governor, or by a gubernatorially appointed board; as well as one position for a personal secretary of any head of a department or agency listed in clause (4).

(2) Classified incumbents of such positions, if any, are not removed from that position for a period of one year except under applicable provisions of rules and laws governing classified state employees.

(3) If an employee in the classified civil service accepts a newly created unclassified position, he shall retain an inactive classified civil service status and, upon his request, the commissioner of personnel shall reappoint him to his previous classified position, or to a comparable position.

(4) Positions so established are limited in number to six in the departments of administration, corrections, finance, ~~highways-transportation~~, natural resources, public safety, public welfare, and revenue; to five in the departments of commerce, education, health, labor and industry, and personnel; to four in the departments of agriculture, economic development, and employment services; to three in the ~~departments-department~~ of ~~aeronautics~~, public service, and the planning agency, and the pollution control agency; and to two in the departments of human rights and veterans affairs. Departments or agencies not enumerated in this clause shall not be authorized to establish additional unclassified positions under the provisions of this subdivision.

(5) Funds are available.

Sec. 10. Minnesota Statutes 1974, Section 216A.05, is amended to read:

216A.05 **FUNCTIONS AND POWERS OF COMMISSION.** Subdivision 1. **LEGISLATIVE NATURE OF FUNCTIONS.** The functions of the commission shall be legislative in nature. It may make such investigations and determinations, hold such hearings, prescribe such rules and regulations and issue such orders with respect to the control and conduct of the businesses coming within its jurisdiction as the legislature itself might make but only as it shall from time to time authorize.

Subd. 2. **POWERS.** The commission shall, to the extent prescribed by law:

(1) Investigate the management of all ~~carriers and~~ warehousemen, including ~~express companies, sleeping car companies~~ and telegraph

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companies, the manner in which their businesses are conducted and the adequacies of the services which they are affording to the public, and make all appropriate orders relating to the continuation, termination or modification of all services and facilities with a view to properly promoting the security and convenience of the public.

(2) Review and ascertain the reasonableness of tariffs of rates, fares and charges, or any part or classification thereof, and prescribe the form and manner of filing, posting and publication thereof.

(3) Prescribe uniform systems of keeping and rendering accounts and the time within which such systems shall be adopted.

~~(4) Direct the repair and reconstruction or replacement of any inadequate or unsafe trackage or structure, motor carrier vehicle or facility.~~

~~(5)~~(4) Order the issuance of franchises, permits or certificates of convenience and necessity.

Subd. 3. **FORMS.** The commission may:

~~(1) Make or amend any rules and regulations governing the procedure and conduct of its hearings not inconsistent with law.~~

~~(2)~~(1) Subpoena, in the same manner a district court summons is served, at such time and place as it may designate, any books, papers or accounts kept by any regulated business within or without the state, or compel production of verified copies in lieu thereof.

~~(3)~~(2) Prepare all forms or blanks for the purpose of obtaining information which it may deem necessary or useful in the proper exercise of its authority and duties in connection with regulated businesses, and prescribe the time and manner within which such blanks and forms shall be completed and filed with it.

~~(4)~~(3) Inspect, at all reasonable times, and copy the books, records, memoranda, correspondence or other documents and records of any business under its jurisdiction.

~~(5)~~(4) Examine, under oath, any officer, agent or employee thereof in relation to its business and affairs.

Subd. 4. **PERFORMANCE OF FUNCTIONS OF DEPARTMENT OF PUBLIC SERVICE.** The commission shall exercise each and every legislative function imposed ~~in present laws upon~~ by law on the department of public service.

Subd. 5. **HEARINGS UPON PETITIONS.** With respect to those matters within its jurisdiction the commission shall receive, hear and determine within six months all petitions filed with it in accordance

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with the procedures established by law and may investigate, hold hearings and make determinations upon its own motion to the same extent, and in every instance, in which it may do so upon petition.

Subd. 6. **OPERATION WITH REGARD TO FEDERAL LAW.** The commission is authorized:

(1) To cooperate with all federal agencies for the purpose of harmonizing state and federal regulations within the state to the extent and in the manner deemed advisable ; ~~and for such purpose may approve and establish freight rates which depart from the distance principle required by any state law .~~

(2) To conduct joint hearings with ~~the interstate commerce commission or federal communications commission~~ any federal agency or commission within or without the state and participate in any proceedings before ~~such commissions~~ any federal agency or commission when it considers such participation advisable and in the interest of the people of this state.

(3) To nominate members to any joint board as provided by federal acts.

Sec. 11. Minnesota Statutes 1974, Section 216A.06, is amended to read:

216A.06 DIRECTOR. Subdivision 1. **ESTABLISHMENT OF OFFICE, APPOINTMENT; TERM.** The office of director of the administrative division of the department of public service is hereby established. He shall be appointed by the governor with the advice and consent of the senate, for a four year term ~~and the initial term to expire on the first Monday in January, 1971 .~~

Subd. 2. **DISQUALIFICATIONS, REMOVAL.** The director shall be subject to the same disqualifications for office as commissioners, shall take and file a similar oath of office, and shall be in the unclassified service and shall be subject to removal by the governor for ~~inefficiency, neglect of duty, malfeasance in office or any grounds provided herein as disqualifying him. His removal shall be upon not less than ten days' notice, based upon written charges, with an opportunity for a public hearing thereon~~ cause after notice and hearing .

Sec. 12. Minnesota Statutes 1974, Section 216A.07, is amended to read:

216A.07 DUTIES OF DIRECTOR. The director shall be the executive and administrative head of the public service department. He shall have and possess all the rights and powers and perform all the duties relating to the administrative function of the department as set forth in ~~section 216A.02, subdivision 2~~ chapter 216A .

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Sec. 13. Minnesota Statutes 1974, Section 216A.08, is amended to read:

216A.08 CONTINUATION OF RULES OF PUBLIC SERVICE DEPARTMENT. All valid rules, regulations, orders and directives heretofore enforced, issued or promulgated by the ~~railroad and warehouse commission~~ public service department under authority of chapters 218, 219, 221 or 222 shall remain and continue in force and effect until repealed, modified or superseded by duly authorized rules, regulations, orders or directives of the public service commission or the commissioner of transportation .

Sec. 14. Minnesota Statutes 1974, Section 218.011, is amended to read:

218.011 DEFINITIONS. Subdivision 1. For the purposes of ~~this chapter~~ chapters 218, 219 and 222 , the ~~following terms shall be defined in this section~~ have the meanings given them in this section .

Subd. 2. "Common carrier" shall mean all railroad companies, except private railroads; express companies; sleeping-car companies; and all persons, natural or artificial, engaged in such transportation as aforesaid common carriers for hire.

Subd. 3. "Railroad" shall include all railways, bridges, car floats, lighters and ferries used by or operated in connection with any railroad; and also all the road in use by any common carrier operating a railroad, whether owned or operated under a contract, agreement or lease; and also all switches, spurs, tracks, terminals and terminal facilities of every kind used or necessary in the transportation of the persons or property designated herein, including all freight depots, yards and grounds, used or necessary in the transportation or delivery of any such property.

Subd. 4. "Transportation" shall include locomotives, steam, diesel or electric powered engines, cars and other vehicles, vessels and all instrumentalities and facilities of shipment or carriage, irrespective of ownership or of any contract, express or implied, for the use thereof, and all services in connection with the receipt, delivery, elevation and transfer in transit, ventilation, refrigeration, or icing, storage and handling of property transported.

Subd. 5. "Department" means the department of transportation.

Subd. 6. "Commissioner" means the commissioner of the department of transportation.

Subd. 7. "Commission" means the public service commission.

Sec. 15. Minnesota Statutes 1974, Section 218.021, is amended to read:

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218.021 COMMON CARRIERS, UNLAWFUL ACTS. Subdivision 1. It shall be unlawful for any common carrier:

(1) To charge, demand, collect or receive for any service a greater or a lesser sum than that fixed in its published schedules.

(2) To change or discontinue any published rate, charge or classification, minimum weight or rule relating to the same, or operation of any regularly scheduled intrastate passenger trains, without approval of the ~~department of public service~~ commission .

(3) To make or give any undue or unreasonable preference or advantage, or any undue or unreasonable prejudice or disadvantage, to any person, company, firm, corporation, transit point or locality or to any particular description of traffic.

(4) By any special rate, rebate, drawback or other device, directly or indirectly, to charge, demand, collect or receive a greater or less compensation for any service rendered in the transportation of any property within this state than the regular established schedule of rates and charges for like and contemporaneous service for any other person, or for the public generally; or, directly or indirectly, to offer or give any shipper, in connection with or as an inducement or reward for receiving any property for transportation, any gift, gratuity or free pass or any rate less than that offered to the public.

(5) Except as expressly permitted, to charge a greater rate per ton or per ton mile for a single carload of freight of any kind or class than for a greater number of carloads of the same kind or class, to and from the same points of origin or destination.

(6) To charge or receive any greater compensation for the transportation of passengers or of like kind or class and a quantity of property for a shorter than for a longer distance over the same line, the shorter being included within the longer; but this shall not be so construed as to authorize any carrier to charge or receive as great compensation for a shorter as for a longer distance; or to charge or receive any greater compensation per ton per mile for the contemporaneous transportation of the same class of freight for a longer than for a shorter distance over the same line in the same general direction, or from the same original point of departure or to the same point of arrival; but this shall not be construed so as to authorize any carrier to charge as high a rate per ton per mile for a longer as for a shorter distance.

(7) To charge or receive for the transportation of freight of any description for any distance within this state a greater amount than is at the same time charged or received for a like quantity of freight of the same class over a greater distance of the same railway; or to charge or receive at any point upon its road a higher rate for receiving, handling or delivering freight of the same class or quantity than it shall

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at the same time charge or receive to any other point upon the same line; or to charge or receive for freight of any description over its railway a greater amount than at the same time is charged or received for the transportation of a like quantity of freight of the same class being transported over any portion of the same railway of equal distance; or to charge or receive from any person a greater amount than it shall at the same time charge or receive from any other person for the same class and like quantity of freight at the same point upon its railway; or to charge or receive from any person for the transportation of any freight upon its railway a greater amount than it shall at the same time charge or receive from any other person for the transportation of a like quantity of freight of the same class being transported from the same point over an equal distance of the same railway; or to charge or receive from any person for the use and transportation of any railway car upon its railroad for any distance, a greater amount than is at the same time charged or received from any other person for the use and transportation of any railway car of the same class or number for a like purpose being transported over a greater distance of the same railway; or to charge or receive from any person for the use and transportation of any railway car upon its railroad a greater amount in the aggregate than it shall at the same time charge or receive from any other person for the use and transportation of any railway car of the same class for a like purpose being transported from the same original point of an equal distance of the same railway; provided, however, where two or more railroads serve a common point one having a shorter mileage than the other from a given point, the railroad having the longer mileage may be authorized by the ~~department~~ commission to meet the rate made by the shortest line.

(8) To charge or receive more for transporting a car of freight than is charged or received per car for several cars of a like class of freight over the same railway for the same distance; or to charge or receive more for transporting a ton of freight than is charged or received per ton for more than a ton but less than a carload of like class over the same railway for the same distance; or to charge or receive more for transporting one hundred pounds of freight than is charged or received per hundred pounds above one hundred pounds but less than a ton of like class over the same railway for the same distance.

Subd. 2. Nothing herein shall prohibit carriage, storage or handling of property free or at reduced rates for the United States, the state, or any governmental subdivision thereof, ministers of religion, sisters of charity, missionaries, students of educational institutions or inmates of charitable institutions, or for charitable purposes, or for exhibition at fairs or at expositions, or of stock for breeding purposes, or issuance of excursion or commutation passenger tickets at rates equal for all; nor prohibit issuance of free tickets, passes or transportation to any officers, bona fide agents, surgeons, physicians, attorneys or employees of any common carrier or dependent members of their families, or to duly elected representatives of any railroad or motor bus labor organizations, or to children under twelve (12) years of age,

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ministers of religion, secretaries of Young Men's Associations, persons exclusively engaged in charitable and eleemosynary work, indigent, destitute and homeless persons and such persons, when transported by charitable societies or hospitals or by any public charity and the necessary agents employed in such transportation, inmates of national homes or state homes for disabled soldiers, inmates of soldiers' and sailors' homes including those entering and returning from such homes and transportation of managers of such homes, post office inspectors, custom and immigration inspectors, witnesses of common carriers attending any legal investigation in which the company is interested, officials and linemen of telegraph and telephone companies, ex-employees retired from service on account of age or because of disability sustained while in the service of the common carrier and dependent members of their families, or the widows or dependent children of employees killed or dying while in the service of such company, necessary caretakers of livestock, poultry, vegetables and fruit, including transportation to and from the point of delivery, employees on sleeping and express cars, railway or motor bus mail service employees, newsboys on trains or motor buses, baggage agents, persons injured in wrecks and physicians and nurses attending them; nor prohibit the interchange of passes, express and other franks for the officers, bona fide agents, surgeons, physicians, attorneys and employee and dependent members of their families of any person or company with the object of providing relief in cases of general epidemic, pestilence or calamitous visitation; nor prohibit the interchange of passenger and freight transportation and message service between railroad, motor bus and telegraph companies; nor prohibit furnishing free transportation to the ~~members of the department, its secretary-commissioner, members of the commission~~, hearings officers, counsel or employees and agents while engaged in the performance of their duties, provided no such free transportation shall be given to any person when a member of, employed by or in any way connected with any political committee or an incumbent of any office or position under the constitution and laws of this state, except as above provided and except that free passes may be given to employees while occupying office or position other than judicial under a municipality, county or public school district, or while acting under appointment as a notary public, and may further issue free passes to any member of the legislature who has been an employee of such company for a continuous period of five (5) years prior to his election, and, provided, that such member of the legislature does not collect mileage for such travel from the state.

Sec. 16. Minnesota Statutes 1974, Section 218.025, is amended to read:

218.025 TRANSPORTATION RATES FOR SHIPPING ROAD BUILDING MATERIALS. ~~The department of public service is hereby authorized to~~ commission may make schedules of intrastate rates for railroads for the transportation of sand, gravel, crushed rock, and other materials to be used in the construction or maintenance of public roads and streets by or under the direction of public authorities, which

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rates may be lower than those charged for transporting the same kind of freight for all other purposes.

Sec. 17. Minnesota Statutes 1974, Section 218.031, as amended by Laws 1975, Chapter 313, Section 1, is amended to read:

218.031 **COMMON CARRIERS, DUTIES.** Subdivision 1. Except as otherwise directed or authorized, it shall be the duty of every common carrier:

(1) To prescribe in the first instance, and to publish upon not less than ten days' public notice in such manner as may be required by the ~~department-commissioner~~ and law, all schedules of fares, rates and charges and classifications thereof, together with the rules governing the same, and minimum weights for transportation of freight articles between points or stations in the state, and terminal and switching charges, *provided there shall be but one classification applicable to any one commodity which shall be uniform on all railroads in this state and govern in all state commerce.*

(2) *To comply with every duly authorized rule, regulation or directive of the ~~department-commissioner~~ or commission except as the same may be stayed, pending appeal therefrom.*

(3) To put into effect and observe all schedules of rates, fares and charges and classifications and any amendments or changes therein duly ordered by the ~~department~~ commission, except as the same may be stayed, pending appeal.

(4) To maintain as may be directed by the ~~public service commission-commissioner~~ for public inspection at stations and depots all schedules showing all classifications, rates, fares and charges for transportation of freight and passengers currently in force applying from such station. Such schedules shall state the places between which persons and property will be carried and show the classification of freight, the distance tariff, a table of distances between stations, any terminal charges and any rules or regulations in any way affecting the aggregate of such rates, fares and charges.

(5) Upon request of an owner or consignor of freight to the initial company, whenever the initial line does not reach the place of destination, or the distance from the place of origin to destination may be shortened, to transfer such freight to a connecting line without change in cars if in carload lots, except such change be free of charge to the shipper and receiver; and to transfer with or without change in cars of less than carload lots at a reasonable joint through rate agreed upon by the connecting carriers or prescribed by the ~~department-commissioner~~ commission, not greater than the maximum rates allowed by law, provided any unloading and reloading which is necessary shall be at cost and the charge for such transfer included in the joint rate.

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(6) To provide the same switching, transfer and handling facilities for local as for interstate traffic.

(7) Upon written demand of the owner, to construct, maintain and operate side tracks and reasonable facilities connecting with any grain warehouse, dock, wharf, mill, coal yard, quarry, brick or lime kiln, sand or gravel pit, crushed rock or concrete plant or manufactory as may be require by the ~~department-commissioner~~, and on such terms as may be agreed upon, or, on failure of agreement, as may be prescribed by the ~~department-commissioner~~.

(8) To issue receipts or bills of lading covering all property received for transportation from any point in the state to any other point in the state, and to respond for any loss, damage or injury to such property caused by it or any carrier to whom such property may be delivered or over whose line it may pass, nor shall any contractual provision whatever exempt it from such liability.

(9) To refund all overcharges for freight, baggage or express, and pay for any loss, damage or injury to property while in its possession, within ninety (90) days after the filing of a claim for such over-charge, loss or damage.

(10) To redeem, upon presentation to any authorized ticket agent, any passenger ticket unused in whole or in part, which has not by its terms expired, and pay therefor a pro rata share of the price for which such ticket was sold or, if wholly unused, the entire purchase price.

(11) To furnish suitable care for the transportation of livestock and transport livestock of different kinds in the same car at the option of the shipper; to deliver all livestock arriving at any terminal, billed to any stockyard within twenty (20) miles thereof, to the chutes of such stockyard within five (5) hours after arrival at the terminal unless prevented by act of God, or to any chutes within ten (10) miles of the terminal within three (3) hours after arrival thereat unless prevented by act of God; to furnish transportation without charge, in connection with livestock shipments in carload lots, for one (1) person for the first car and an additional person for each additional four (4) carloads shipped at the same time, in a caboose or other suitable car while going, and by first class passage when returning.

(12) To keep its accounts so as to show, as far as practicable, the earnings derived from, and the expenses incurred in, handling intrastate business in such form as the ~~department-commissioner~~ shall prescribe, including the separation of accounts for each operating division, wholly or partly within the state. Such accounts shall show the total cost of operating through trains and the total cost of operating the local or distributing trains of each operating division, wholly or partly within the state, during the fiscal year to be fixed by the ~~department-commissioner~~, the total number of tons of revenue and non-revenue freight, the number of tons of each carried one (1) mile on the through

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trains and on the local trains, respectively, the number of tons and ton miles of revenue and non-revenue freight carried on through or local trains which are exclusively intrastate, and the gross tons and ton miles made by through and local trains on each division. The accounts shall show the total revenue and non-revenue train and engine miles and the total revenue and non-revenue car miles (the non-revenue car miles to be shown loaded and empty separately) produced by such railroad in the state in each operating division, the number of each of the above train, engine and car mileage produced in handling the through trains and in handling the local trains, the total locomotive miles produced in switching on each division and such further information related to the income or cost of intrastate business as the ~~department-commissioner~~ department-commissioner may require. The ~~department-commissioner~~ department-commissioner may require such accounts to be kept with reference to the intrastate passenger business of each carrier and the train, car and engine mileage incurred in such business in this state as it may deem necessary.

(13) During pendency of any litigation, when rates prescribed by the ~~department-commission~~ department-commission have not been put into effect, to keep a correct account of every charge made by it for any services to which such rates apply in excess of the rates prescribed, showing in each case the difference between the amount actually charged and the amount allowed to be charged, the date of the transaction, the stations between which the business was carried and the names and addresses of the consignor and consignee, and to report such information in full to the ~~department-commission~~ department-commission on ~~their~~ his request.

Subd. 2. Every common carrier shall furnish to the ~~department-commissioner~~ department-commissioner :

(1) All schedules of rates, fares and charges, every part and classification thereof, together with minimum weights and rules with respect thereto, and any and all amendments, modifications or changes therein.

(2) All information duly required in blanks and forms furnished by the ~~department-commissioner~~ department-commissioner .

(3) A copy of all annual reports and valuation data furnished to the Interstate Commerce Commission not later than June 30th, covering the preceding calendar year, together with any additional information regarding valuation of its properties requested by the ~~department-commissioner~~ department-commissioner .

(4) A report of accidents, wrecks and casualties occurring in this state in such manner and form and at such times as prescribed by the ~~department-commissioner~~ department-commissioner . All such reports administered by the department of public safety shall be received and administered in accordance with the provisions of section 169.09, subdivision 13. All other reports shall be open to public inspection but shall not be admissible in evidence in any suit or action for damages growing out of such acci-

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dent, wreck or casualty.

(5) All tariff agreements or arrangements with other carriers.

(6) All joint schedules of rates, fares or classifications.

Subd. 3. Nothing in Minnesota Statutes, Chapter 218, shall limit the liability of common carriers at common law with reference to property in their custody, including absolute responsibility for the acts of their agents with reference thereto, nor shall liability be limited by contract or otherwise, except as stated in their published classification schedules.

Subd. 4. A common carrier, issuing any receipt or bill of lading, shall be entitled to recover from the carrier on whose line loss, damage or injury shall have been sustained, such amount as it may be required to pay to the owners of the property as evidenced by any receipt, judgment or transcript thereof.

Subd. 5. Any railroad company may construct and maintain at its own expense any bridges and the approaches thereto so as to answer for ordinary travel and, unless within one mile from a toll bridge previously built by an incorporated bridge company over the same stream, may charge and collect for its use reasonable toll, subject to the approval of the proper county board. A toll shall be uniform and the rates shall be conspicuously posted on or near the toll house. The company may contract with any person or corporation for the payment of a fixed sum yearly or otherwise in lieu of toll.

Subd. 6. An action or proceeding may be instituted, upon verified complaint of the commissioner or any interested person in any district court of any county wherein a common carrier has a principal office or into which its railroad extends, for the enforcement of any provision of Minnesota Statutes, Chapter 218, or any order, rule or directive of the commissioner or commission, and the court may grant provisional or other relief, ordinary or extraordinary, legal or equitable, which the nature of the case may require, including temporary mandatory or restraining orders. Except when there is a constitutional right to trial by jury not expressly waived, all such proceedings shall be tried summarily by the court and such matters shall take precedence over all other matters except criminal cases.

Subd. 7. Every claim against a common carrier for any overcharge or difference in weight or for loss, damage or injury to property while in its possession, shall first be filed with either the agent at point of origin or of destination or with the freight claims department of the carrier. It shall not be filed until after arrival of shipment or some part thereof at destination or until after a lapse of reasonable time for the arrival thereof. It shall consist of: (a) original bill of lading or shipping receipt, (b) paid freight bill, (c) bill of claimant, (d) original invoices or certified copies, when necessary. True copies may be used or, in the

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absence thereof, an explanation. If a claim is not paid or adjusted within 90 days of its filing, suit may be commenced in any court of competent jurisdiction, in which all persons similarly situated may intervene or be joined and, if claimant prevails, a penalty of ten percent, plus legal interest, reasonable attorneys' fees, costs and disbursements shall be allowed.

Subd. 8. In all proceedings under this section, any final and duly promulgated material order, rule or directive of the commissioner or commission and all schedules of rates, fares or charges fixed by the commission shall be deemed and taken in all courts as prima facie fair and reasonable.

Subd. 9. In all proceedings under this section, the court may order payment of costs, counsel fees and disbursements as it deems just and reasonable.

Subd. 10. Any common carrier which shall do or cause to be done any unlawful act, or fail to perform any duty prescribed, or violate any duly established order, rule or directive of the commissioner or commission, or which shall aid or abet in the performance of any unlawful act or in the failure to perform any such duty, shall be liable in damages to any person injured thereby, and that person, if he recovers, shall be allowed, in addition to damages, reasonable attorneys' fees, together with costs and disbursements.

Sec. 18. Minnesota Statutes 1974, Section 218.041, is amended to read:

218.041 DUTIES OF COMMISSIONER. Subdivision 1. With respect to all common carriers ~~under this chapter including express companies and sleeping car companies~~, the ~~department~~-~~commissioner~~ shall investigate the management thereof, the manner in which their businesses are conducted, and the adequacy of the services they are affording the public ~~and shall~~ prescribe uniform systems of keeping and rendering accounts and the time within which such systems shall be adopted; ~~direct the repair and reconstruction or replacement of any inadequate or unsafe trackage, structure or facility; and~~. The commission shall make all appropriate orders relating to continuation, termination, modification or extension of services and facilities with a view to properly promoting the security and convenience of the public.

Subd. 2. The ~~department~~-public service commission shall, upon petition and ~~appropriate proceedings thereunder after hearing~~ :

(1) Review and ascertain the reasonableness and equalities of all schedules of rates, fares and charges or any part or classification thereof, including joint through rates, and, if found unreasonable or discriminatory, establish new schedules and prescribe the form and manner of filing, posting and publication thereof.

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(2) Order the issuance of any franchises, permits or certificates of convenience and necessity.

~~(3) At all points of intersection and crossings of different railroads, or where two railroads are not more than one-half (1/2) mile apart, and at all terminals, prescribe ample facilities by track connection, joint use of tracks, passenger and freight platforms and depots, warehouses, docks over which general merchandise is handled and forwarded, and other necessary appliances and conveniences for the transfer, forwarding and handling of general merchandise and parcel freight between such railroads and between such railroads and such docks, warehouses and vessels at such docks.~~

(4) Determine the proportionate share of each company in the cost of providing connecting and transfer facilities in the event the companies fail to agree.

(5) Direct construction, maintenance and operation at any points prescribed by law of all side tracks and reasonable facilities connecting any road with any grain warehouse or mill, dock, wharf, coal yard, quarry, brick or lime kiln, sand or gravel pit, crushed rock or concrete plant, or manufactory adjacent thereto, and prescribe the terms therefor.

(6) Direct the discontinuance of any regularly scheduled intrastate passenger trains upon a finding after public hearing that the public will not be deprived of reasonably adequate service thereby.

~~(7)~~-(3) Prescribe schedules of reasonable maximum rates or charges for the transportation of freight and cars on each railroad, including the classification of such rates and rules governing the same, and revise the same from time to time.

~~(8)~~-(4) Fix rates or charges for carrying livestock to St. Paul or between St. Paul and South St. Paul, provided that the railroad transporting such livestock to St. Paul shall absorb switching charges from St. Paul to South St. Paul out of its line haul rates or charges for transportation of such livestock to St. Paul, or the common rate point which includes St. Paul.

~~(9)~~-(5) Prescribe rates for feeding cattle applicable to outmovement from terminal markets. The department commission may unite two or more stations or commercial centers into a common rate point and may designate the classes of freight which shall take common rates, and fix the mileage that shall govern between the common rate point and any or all other points in the state. The distance so fixed shall not apply as a measure of the rate for the movement of the same class of freight for similar distances between other points.

(10) Prescribe rules and regulations for distribution of cars at stations for use of shippers of livestock and farm products.

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~~(11)~~-(6) Prescribe a schedule of joint through railway rates for freight over two or more connecting lines of railway and revise the same from time to time. In so doing, the ~~department-commission~~ shall consider, among other things, rates established for shipments within this state for like distances over single lines, rates charged by the railway companies operating such connecting lines for joint interstate shipments, and the increased cost, if any, of a joint through shipment as compared with a shipment over a single line for like distances. In establishing rates for shipments in less than carload lots, in cases where connecting railways are not required to have common stations or stopping place for loading or unloading freight at connecting points, the ~~department-commission~~ shall regulate the transportation of such freight from the usual unloading place of one railway to the usual loading place of the other. The share of any railway company of any joint through rates shall not be construed to fix the charge that it may make for a similar distance over any part of its line for any single rate shipment, or the share of any other joint rate. Where the line of a railway company connects the point of shipment with the point of destination but would require a longer haul than a joint haul for which a joint rate has been established, the ~~department-commission~~ may authorize charging the joint rate for the single haul without affecting the charge upon any other part of its line except that the charge for a like kind of property must not be greater for a shorter than for a longer distance upon that railroad, all of the shorter hauls being included within the longer.

~~(12)~~-(7) Define switching and drayage service to apply to the movement of traffic within and between points and fix reasonable maximum rates for the same, which shall be independent of any rates that may be made for line haul transportation. There shall be but one terminal charge for switching or transferring any car within any one municipality and, if it is necessary that any car in such transfer pass over the tracks of more than one railroad within such limits, the company first so transferring such car shall receive the entire charge therefor and be liable to each company doing subsequent switching for its just share of such charge as may be agreed upon among the companies, or, in the event of disagreement, as prescribed by the ~~department-commissioner~~.

(8) Upon application by a carrier stating that it desires to establish a rate for a temporary period for the protection of the interests of the carriers or its shippers, authorize and establish the temporary rate, and extend the rate as the circumstances of the case may require, and permit the restoration of the rate existing at the time of the application without further proceedings.

(9) Authorize less than full fare rates for transportation of children under 12 years of age.

(10) Approve the establishment, change, or alteration of any rate, charge, or classification, minimum rate, or rule governing the same, to

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which a common carrier is a party, upon application of such common carrier in writing when such application appears to be noncontroversial.

Subd. 3. The commissioner shall, upon petition and after hearing:

(1) At all points of intersection and crossings of different railroads, or where two railroads are not more than one-half mile apart, and at all terminals, prescribe ample facilities by track connection, joint use of tracks, passenger and freight platforms and depots, warehouses, docks over which general merchandise is handled and forwarded, and other necessary appliances and conveniences for the transfer, forwarding and handling of general merchandise and parcel freight between such railroads and between such railroads and such docks, warehouses and vessels at such docks.

(2) Determine the proportionate share of each company in the cost of providing connecting and transfer facilities in the event the companies fail to agree.

(3) Direct construction, maintenance and operation at any points prescribed by law of all side tracks and reasonable facilities connecting any road with any grain warehouse or mill, dock, wharf, coal yard, quarry, brick or lime kiln, sand or gravel pit, crushed rock or concrete plant, or manufactory adjacent thereto, and prescribe the terms therefor.

(4) Direct the discontinuance of any regularly scheduled intrastate passenger trains upon a finding after public hearing that the public will not be deprived of reasonably adequate service thereby.

(5) Prescribe rules and regulations for distribution of cars at stations for use of shippers of livestock and farm products.

~~(13)~~ (6) Require installation of track scales at terminals, warehouses and at all other points in the state where the same are deemed necessary and prescribe reasonable regulations for the weighing of cars and of freight.

~~(14)~~ (7) Prescribe the speed at which and the conditions under which cars of livestock shall be moved by any carrier within the state in intrastate shipments.

~~(15)~~ (8) Prescribe the fees necessary to cover cost of supervision and weighing and the method of assessment and collection thereof.

~~(16)~~ (9) Prescribe reasonable regulations for handling property, passenger, baggage, express and mail, partly over privately owned rights-of-way and partly over highways, so that reasonable and adequate accommodations and service may be afforded.

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~~(47)~~-(10) Prescribe the extent to which any designated carrier, upon its petition, may be relieved from the operation of the principles established by section 218.021, subdivision 1, clauses (6), (7) and (8).

Subd. 4. The commissioner shall:

(1) Supervise and inspect all track scales, and direct any carrier to transport, move and switch to any track scale free of charge any test car used by the state in testing the scales;

(2) Investigate and determine whether any common carriers are granting rebates or, in any other particular, failing to comply with laws or with orders, rules or directives of the commissioner or the department;

(3) Appear and press before the Interstate Commerce Commission any petition, whether filed by a resident of the state or otherwise, charging any common carrier doing business in this state with any violation of the Interstate Commerce Act of the United States, whenever the department deems the matter to be one of public interest;

(4) Appoint at public stockyards weighers as may be necessary for the purpose of weighing livestock; a weigher shall report daily to the supervisor of the stockyards on the weights taken by him; the report shall be in the form prescribed by the commissioner and the supervisor shall furnish to interested parties a certificate setting forth the number of animals weighed, for whose account weighed and the actual weight of the animals; no weigher shall, during his term of service, be in any manner interested in the handling, shipping, purchasing or selling of livestock or in the employ of any person or corporation engaged in that activity, nor shall he be a member of any livestock exchange or organization of like character;

(5) Authorize publication on less than ten days' public notice of schedules containing all classifications, rates, fares and charges for the transportation of freight and passengers;

(6) Collect all fees prescribed by the commissioner to cover the cost of supervision and weighing, depositing the same in the state treasury in a fund known as the livestock weighing fund; and

(7) Institute and prosecute all actions and proceedings in the appropriate courts for the enforcement of the provisions of Minnesota Statutes, Chapter 218, the orders, rules and directives of the commissioner and the commission issued thereunder and any violations thereof; and

(8) Direct the repair, reconstruction or replacement of any inadequate or unsafe trackage, structure or facility.

Subd. 5. The commissioner may:

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(1) Subpoena books, papers or accounts kept by any regulated business within or without the state, or compel production of verified copies;

(2) Prepare all forms or blanks for the purpose of obtaining information which the commissioner may deem necessary or useful for the proper exercise of his authority and duties in connection with regulated businesses, and prescribe the time and manner within which the blanks and forms shall be completed and filed;

(3) Inspect, at all reasonable times, and copy the books, records, memoranda, correspondence or other documents and records of any business under his jurisdiction; and

(4) Examine, under oath, any officer, agent or employee of a business under his jurisdiction concerning its business and affairs.

Subd. 3-6 . The ~~department~~ commissioner may ; ~~upon its discretion~~ and without hearing:

(1) Order any railroad company to furnish water for the use of stock at all stockyards in the state.

(2) Prescribe regulations for the weighing of cars and freight offered for shipment in carload lots, approve sealing devices to be used in sealing scales and require installation of such sealing devices.

(3) Order in and require installation and maintenance of stock scales at all stockyards, and fix the capacity of such scales which shall be for free use of all patrons, shipping livestock from, into or through such stockyards.

(4) ~~Authorize less than full fare rates for transportation of children under twelve (12) years of age.~~

(5) ~~Approve the establishment, change, or alteration of any rate, charge, or classification; minimum rate, or rule governing the same; to which a common carrier is a party; upon application of such common carrier in writing when such application appears to be noncontroversial.~~

Sec. 19. Minnesota Statutes 1974, Section 218.071, is amended to read:

218.071 RULES AND ORDERS OF COMMISSIONER; OFFENSES AND PENALTIES. Subdivision 1. Every duly adopted rule, order or directive of the ~~department~~ commissioner or commission shall have the full force and effect of law.

Subd. 2. Unless a different penalty or punishment is specifically prescribed, any person, firm or corporation who performs any unlaw-

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ful act, or fails to perform any duty imposed upon him by this chapter, or to obey any valid and final order, rule or directive of the ~~department commissioner or commission~~, or who assists and aids therein, shall be guilty of a misdemeanor, and, if the violation be a continuing one, then he shall be guilty of a new offense for each day of such continuance, and for each offense shall be punished by a fine of one hundred dollars (\$100).

Subd. 3. Any common carrier, wilfully granting any special rate, rebate, drawback, or directly or indirectly charging, demanding or collecting a greater or less compensation than provided by its regular established schedule of rates and charges, shall be punished by a fine not exceeding five thousand dollars (\$5,000) for each such offense.

Subd. 4. Any common carrier failing to comply with any order of the ~~department commissioner or commission~~ shall be subject to a penalty of fifty dollars (\$50) for each and every day of such failure to comply, to be recovered for the state in a civil action by the department.

Sec. 20. Minnesota Statutes 1974, Section 219.03, is amended to read:

219.03 INTERLOCKING DEVICES. When, in the judgment of the ~~department of public service commissioner~~ it is necessary for the public safety ~~it~~ he may require, at all railroad crossings, junctions, and drawbridges in the state, the establishment of interlocking devices or such other safety appliances as are necessary for the protection and safety of the traveling public. Where two or more railroad companies are interested, the division of the expense of installing, maintaining, and operating the interlocking plant or safety device shall be agreed upon by the respective companies required to install the same; in case they cannot agree such division shall be determined by the ~~department commissioner~~ after a hearing.

Sec. 21. Minnesota Statutes 1974, Section 219.04, is amended to read:

219.04 BLOCK SIGNAL SYSTEM; APPROVAL BY COMMISSIONER. The ~~department commissioner~~ may require any railroad company on any part of its lines operated in this state to install and operate a "block signal system" or any other device or appliance that in its judgment will best promote the public safety. When any railroad company proposes to install in this state any interlocking plant, block signal system, or other safety appliance on any part of its system it shall first submit the plans to the ~~department commissioner~~ for approval and after the same is installed, have the department inspect same and issue a certificate before the plant is operated.

Sec. 22. Minnesota Statutes 1974, Section 219.14, is amended to read:

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219.14 RAILROAD CROSSINGS PROTECTED. Subdivision 1. **INVESTIGATION.** The ~~department of its commissioner~~ on his own motion may investigate and determine whether any railroad crossing over any street or public highway now or hereafter established and traveled or to be traveled in this state is or will be when opened to public travel dangerous to life and property, or either, and may order the same protected in any manner it may find reasonable and proper, including requiring the company to separate the grades.

Subd. 2. **HEARING.** The ~~department commissioner~~ shall give the interested railroad company ~~interested~~ such notice of the investigation as ~~it-he~~ deems reasonable ~~of the investigation~~, and an opportunity to be heard before any order is made.

Sec. 23. Minnesota Statutes 1974, Section 219.17, is amended to read:

219.17 UNIFORM WARNING SIGNS. The ~~department is hereby authorized and required to adopt and prescribe uniform warning signs for use at grade crossings in this state which will furnish adequate warning of the existence and nature of such grade crossings and to make regulations as to the place of installation~~ commissioner by rule shall require that uniform warning signs be placed at grade crossings in this state. There shall be at least three distinct types of such warning signs: a home crossing sign, for use in the immediate vicinity of the crossing, an approach crossing sign, to indicate the approach to a grade crossing, and a stop sign, which shall have the word "stop" plainly appearing thereon, to indicate the necessity to persons on the highway approaching the crossing, whether in vehicles or otherwise, to come to a stop before proceeding over the grade crossing.

Sec. 24. Minnesota Statutes 1974, Section 219.19, is amended to read:

219.19 ADDITIONAL WARNING SIGNS; RAILROADS TO PROVIDE. At each grade crossing where, because of the conditions surrounding the same, the reasonable protection to life and property makes it necessary for additional warning signs to be placed on the highway at a greater distance from the crossing than the home signs, such approach warning signs shall be installed. The ~~department is hereby authorized to~~ commissioner may designate any such grade crossings requiring such additional signs on either or both sides of said crossing. When any such crossing is designated by the ~~department commissioner~~ commissioner as requiring such additional protection, ~~it-he~~ shall notify the railway company operating the railroad thereat and the public authorities having the care of the highway. Such railway company shall, within 30 days after such notification, furnish such uniform signs to such public authorities, and such public authorities shall erect these signs in conspicuous places on the highway on either or both sides of such grade crossings, as the case may be, not less than 200 feet from the crossing and thereafter maintain the same.

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Sec. 25. Minnesota Statutes 1974, Section 219.20, is amended to read:

219.20 STOP SIGNS. Subdivision 1. At each grade crossing where, because of the dangers attendant upon its use, the reasonable protection of life and property makes it necessary for all persons approaching the same to stop before crossing the railroad tracks thereat, such stop signs shall be installed. The ~~department is hereby authorized to~~ commissioner may designate any such crossing requiring such additional protection as a stop crossing, and shall notify the railway company operating the railroad thereat of such designation. Within 30 days after such notification it shall be the duty of such railway company to erect such uniform stop crossing signs in conspicuous places on each side of the crossing.

Subd. 2. When a stop sign has been erected at a railroad crossing the driver of any vehicle shall stop within 50 feet, but not less than ten feet, from the nearest track of the crossing and shall proceed only upon exercising due care.

Sec. 26. Minnesota Statutes 1974, Section 219.23, is amended to read:

219.23 WATCHMEN; RAILROADS TO PROVIDE. When the ~~department-commissioner~~, in any investigation instituted upon ~~its-his~~ own motion or upon complaint and after notice and hearing, finds that the presence of a watchman is necessary for the protection of life and property at any grade crossing, ~~it-he~~ shall order the railway company operating the railroad thereat to provide such watchman and shall *specify in such order the hours during which the presence of the same is required.* It shall thereupon be the duty of such railway company to provide such watchman during such time. Such watchman shall have full control over the traffic at this crossing.

Sec. 27. Minnesota Statutes 1974, Section 219.24, is amended to read:

219.24 ADDITIONAL SAFEGUARDS. When, in any investigation instituted upon its own motion or upon complaint and after notice and hearing, the ~~department~~ commissioner finds that conditions exist at any grade crossing which in ~~its-his~~ opinion require any additional safeguards for the protection of life and property, such as crossing gates or other suitable devices, the ~~department is authorized to-commissioner~~ shall specify the nature of the devices required and ~~to-may~~ order the railway company operating the railroad at such crossing to install the same.

Sec. 28. Minnesota Statutes 1974, Section 219.25, is amended to read:

219.25 CROSSING GATES. When, in any investigation instituted Changes or additions indicated by underline deletions by strikeout

upon its own motion or upon complaint and after notice and hearing, the ~~department~~ commissioner finds that the protection of life and property requires the constant operation of crossing gates, where the same are now or may be hereafter installed, the ~~department is authorized to~~ commissioner may order any railway company operating the railroad at such crossing to provide persons to operate such crossing gates for the full 24 hours of each day.

Sec. 29. Minnesota Statutes 1974, Section 219.26, is amended to read:

219.26 GRADE CROSSINGS; UNIFORMITY OF DEVICES FOR PROTECTION. It shall be the duty of the ~~department~~ commissioner, so far as practicable, to secure uniformity in the devices used to protect grade crossings. No such devices shall be installed until the same have been approved by the ~~department~~ commissioner. All such devices which are now in use or which may be hereafter installed, which, in the opinion of the ~~department~~ commissioner, conflict with the devices approved by the ~~department~~ commissioner, either in their design or method of operation, so as to create a hazardous condition to the travel at such crossing, shall be immediately modified by the railroad company controlling the same so as to conform to those approved by the ~~department~~ commissioner.

Sec. 30. Minnesota Statutes 1974, Section 219.27, is amended to read:

219.27 VACATING OR RELOCATING CROSSINGS; HEARINGS. When it is desired, either by the public officials having the necessary authority or by the railway company operating the railroad, to vacate or relocate any crossing of a public highway and a railroad, and an agreement cannot be reached between such public officials and the railway company, either as to such vacation or relocation, or as to the place, manner of construction, or a reasonable division of expense in the case of a relocation, either party may file a petition with the ~~department~~ commissioner, setting forth the facts and submitting the matter to ~~it~~ him for determination; whereupon the ~~department,~~ after such notice as it shall deem reasonable, commissioner shall conduct a hearing in accordance with Minnesota Statutes, Chapter 15, and shall issue ~~its~~ his order determining the matters so submitted; and unless the ~~department~~ commissioner finds that the interests and safety of the public require the continued existence of such crossing, it may order the same to be vacated or relocated, as the case may be.

Sec. 31. Minnesota Statutes 1974, Section 219.28, is amended to read:

219.28 OVERHEAD OR UNDERGROUND CROSSINGS; SEPARATE GRADES. The ~~department~~ commissioner may require any railroad company to construct overhead and maintain underground crossings and separate grades when, in ~~its~~ his opinion, the interests and

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safety of the public require, and no overhead or underground crossings, nor separation of grade, shall be made except upon petition therefor ~~to the department~~ , and with the approval of the ~~department commissioner~~ commissioner .

Sec. 32. Minnesota Statutes 1974, Section 219.383, is amended to read:

219.383 SAFE OPERATION OF TRAINS OVER STREETS AND HIGHWAYS. Subdivision 1. **RATE OF SPEED FOR TRAINS.** The ~~department of public service commissioner~~ on petition of any city council or any railway corporation may fix and determine after a hearing a reasonable rate of speed for the operation of an engine or train on and over any railroad crossing of a public highway or street in such city.

Subd. 2. **PROCEDURE.** The procedure before the ~~department of public service commissioner~~ and the right of appeal under this section shall be that provided in Minnesota Statutes ~~1941~~ , Chapter ~~216~~ , and ~~acts amendatory thereof~~ 15 .

Subd. 3. **MAXIMUM RATE OF SPEED.** Where the ~~department of public service commissioner~~ has fixed the rate of speed of an engine or train over a public highway or street crossing in a city as provided in this section, such rate of speed so fixed shall be the lawful maximum rate of speed at which an engine or train can be operated on and over such public highway or street crossing, until changed by subsequent order of the ~~department commissioner~~ .

Subd. 4. **NOT TO BLOCK PUBLIC ROADS OR STREETS.** No railway corporation shall permit any public road or street crossing a railroad track to be closed for traffic by a standing car, train, or engine or other railroad equipment for a longer period than ten minutes, provided, this section shall not apply to cities of the first class which regulate obstruction of streets by ordinance.

Subd. 5. **VIOLATION.** Any railway corporation violating any provision of this section shall be guilty of a misdemeanor and upon conviction therefor shall be liable for a fine of not less than \$25 nor more than \$100.

Sec. 33. Minnesota Statutes, 1975 Supplement, Section 219.39, is amended to read:

219.39 DANGEROUS CROSSINGS; COMPLAINTS; HEARINGS. On his own motion, or upon written complaint authorized by a ~~majority vote of the members of the council~~ the governing body of any city or county , or by the board of supervisors of any town, ~~or board of county commissioners of any county in this state; or by the commissioner of highways, filed with the department; by the chief executive officer of the city; the chairman of the board of supervisors or the county commissioners; or the commissioner of highways; as the case~~

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~~may be, alleging that any railroad crossing with any street, road or highway in the city, or town or county road, or state aid road or trunk highway, is dangerous to life and property, and giving the reasons therefor, the department commissioner shall proceed to investigate the matters contained in the complaint, and, where necessary, convene a hearing, at a time and place to be fixed by the department commissioner, after such notice to the complainant and the railroad as the department commissioner may deem reasonable.~~

Sec. 34. Minnesota Statutes, 1975 Supplement, Section 219.40, is amended to read:

219.40 DETERMINATION; ORDER; FLAGMEN OR SAFETY DEVICE. ~~The department shall decide the matter set forth in the complaint and make a proposal for decision in writing, including findings of fact, and make such proposed order as it shall deem proper in the premises and, if the department shall find the crossing to be dangerous, it~~ If a complaint is made under section 219.39, the commissioner shall determine whether the crossing is dangerous and may with or without hearing require the railroad company complained of to provide flagmen at such crossing, or to adopt such safety device ~~devices as the department commissioner may deem necessary for the proper protection of the crossing, or it may require the removal of any structure, embankment or other obstruction to the view, or it may require the crossing complained of or other crossing in the vicinity thereof closed, or it may require the railroad company to construct an overhead or maintain an underground crossing and divide the cost thereof between the railroad company, the town, county, municipal corporation, or state highway department interested, on such terms and conditions as to the department may seem just and equitable. Where the railroad has been constructed or the grade thereof lowered after the laying out of the highway and the railroad tracks are seven feet or more below the natural surface of the ground, the department commissioner may require the maintenance of an overhead bridge with suitable approaches and require the complaining city, town, or county to remove any embankment, structure or other obstruction to the view as may be reasonable and necessary to properly protect the crossing; provided, that no highway shall be laid out over any railroad so as to cross at the same grade until such crossing has been approved by the department commissioner.~~ If the complainant or the railroad files exceptions to a proposal for a decision an order of the commissioner made under this section without a hearing, the department commissioner shall convene a hearing and on the original complaint. If the department of public service commissioner or his designee after notice and hearing orders the installation of a safety device, or the construction, reconstruction, modernization or replacement of major parts, as defined by the department rule of the commissioner, of said safety device, gates, or other type of special protection, or the removal of a structure, embankment or other obstruction to the view, or orders the construction, reconstruction or maintenance of an underground or overhead crossing on any public road, street, or highway, it ~~he~~ may in

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the same order direct that the costs thereof be divided between the railroad company and the public authority involved on such basis as the parties may agree, or, if they fail to agree, then the costs thereof shall be as determined by the ~~department of public service~~ commissioner or his designee on the basis of benefit to the users of each; or the ~~department commissioner or his designee~~ may defer determination of the division of costs to a subsequent order to be made on the basis of evidence previously taken. Where a state trunk highway is involved, the state's share of the costs shall be paid from any funds available to the department of highways. In all other cases the public's share of the costs shall be paid from available funds or from the Minnesota highway safety account, if ordered by the ~~department commissioner or his designee~~ , or from any combination of the above or other available funds; provided that any highway, street or road fund shall only be expended for such costs on a highway, street or road within the political subdivision charged with the maintenance and care thereof and only upon the highways, streets or roads for which the fund was allocated, or for which the fund was created.

Sec. 35. Minnesota Statutes 1974, Section 219.401, is amended to read:

219.401 HIGHWAY SAFETY ACCOUNT. Subdivision 1. There is ~~hereby~~ created in the treasury of the state a Minnesota highway safety account ~~which shall consist of the moneys hereinafter appropriated and which shall be supervised, regulated and controlled by the Minnesota department of public service as hereinafter provided~~ commissioner .

Subd. 2. *Notwithstanding the provisions of any law to the contrary*, all moneys credited to the Minnesota highway safety account are hereby appropriated annually for the purposes of carrying out the terms and provisions of Minnesota Statutes ~~1965~~ , ~~Sections~~ Section 219.40 and 219.401 .

Sec. 36. Minnesota Statutes 1974, Section 219.41, is amended to read:

219.41 APPEAL; ORDER, HOW ENFORCED. Any railroad company, or the city, town or county making the complaint, may appeal from an order of the ~~department commissioner~~ to the district court of the county in which the crossing is located; and, in case of such appeal, the same proceedings shall be had as is now provided by law for an appeal from orders of the ~~department commissioner~~ . All orders of the ~~department commissioner~~ shall be enforced by the attorney general.

Sec. 37. Minnesota Statutes 1974, Section 219.42, is amended to read:

219.42 FAILURE TO COMPLY; PENALTY. Any railroad company ~~Changes or additions indicated by underline deletions by strikeout~~

or any city, town, or county failing to comply with any order of the ~~department~~ commissioner that is not appealed from; or, if appealed from, affirmed in whole or in part, shall be liable to a penalty of \$50 for each and every day of such non-compliance to be collected in civil action brought by the attorney general.

Sec. 38. Minnesota Statutes 1974, Section 219.43, is amended to read:

219.43 TEMPORARY FLAGMAN. When it shall appear from any cause that an unusual number of trains are being operated in or through any city in this state the ~~department shall have power~~ commissioner may, upon complaint made by the city council, to compel the installation of a flagman, or flagmen, as the case may be, without a hearing and such order shall be complied with within five days; provided, that such railroad company may remove such flagmen when the movements of trains through such city assumes normal conditions.

Sec. 39. Minnesota Statutes 1974, Section 219.46, Subdivision 1, is amended to read:

219.46 UNLAWFUL STRUCTURES; CLEARANCES. Subdivision 1. **STRUCTURES.** On and after the passage of Laws 1913, Chapter 307, it shall be unlawful for any common carrier, or any other person, to erect or reconstruct and thereafter maintain on any standard gauge road on its line or on any standard gauge sidetrack used in connection therewith, for use in any traffic mentioned in section 219.45, any warehouse, coal chute, stock pen, pole, mail crane, standpipe, hog drencher, or any permanent or fixed structure or obstruction, or in excavating allow any embankment of earth or natural rock to remain upon its line of railroad, or on any sidetrack used in connection therewith at a distance less than eight feet measured from the center line of the track, which structure or obstruction adjoins on standard gauge roads; nor shall any overhead wires, bridges, viaduct or other obstruction passing over or above its tracks as aforesaid be erected or reconstructed at a less height than 21 feet, measured from the top of the track rail.

If after May 1, 1943, overhead structures or platforms or any structures designed only to be used in the loading or unloading of cars are rebuilt or remodeled, then such overhead structures shall be built with an overhead clearance of not less than 22 feet from the top of the rail and such structures or platforms shall be built with a side clearance of not less than eight feet six inches from the center line of the track unless by order the ~~department~~ commissioner may provide otherwise.

Laws 1913, Chapter 307, shall not be construed to apply to yards and terminals of depot companies or railway companies used only for passenger service. In the event of personal injury sustained by any employee of any such company in this paragraph mentioned, by reason of noncompliance with the provisions of Laws 1913, Chapter 307, such

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employee, or in case of his death, his personal representative, shall have all the rights, privileges and immunities enumerated in Laws 1913, Chapter 307, Section 9.

On and after May 1, 1943, it shall be unlawful for any common carrier, or any other person, to erect or construct on any standard gauge road on its line or on any standard gauge sidetrack or spur used in connection therewith, for use in any traffic mentioned in section 219.45, any warehouse, coal chute, stock pen, pole, mail crane, stand-pipe, hog drencher, or any permanent or fixed structure or obstruction, or in hereafter excavating allow any embankment of earth or natural rock to remain upon its line of railroad, or on any sidetrack used in connection therewith at a distance less than eight feet six inches measured from the center line of the track, which said structure or obstruction adjoins on standard gauge roads, nor shall any overhead wires, bridges, viaduct or other obstruction passing over or above its tracks as aforesaid be erected or constructed at a less height than 22 feet, measured from the top of the track rail.

Sec. 40. Minnesota Statutes 1974, Section 219.46, Subdivision 4, is amended to read:

Subd. 4. **MAY MAINTAIN EXISTING TRACKS.** It shall not be unlawful for any common carrier or any other person to maintain or reconstruct any tracks now in existence which were constructed after April 16, 1913, in accordance with the then existing clearance law or to maintain or reconstruct tracks which, if constructed prior to said date, were constructed with clearances as provided in Laws 1913, Chapter 307, or to maintain or reconstruct tracks built in accordance with the provisions of Laws 1913, Chapter 448. As to tracks that were constructed with a less clearance than 13 feet between center lines prior to April 16, 1913, it is hereby declared that the maintenance of a clearance of less than 13 feet between center lines in railroad switching yards may create a hazard and the ~~department commissioner~~ is hereby authorized on petition by an affected party and after hearing, where a greater clearance can be reasonably provided, to require adequate and safe clearances as rapidly as possible in such yards.

Sec. 41. Minnesota Statutes 1974, Section 219.46, Subdivision 7, is amended to read:

Subd. 7. **ORDER FOR LESS CLEARANCE.** The ~~department commissioner~~ after a hearing may authorize in the construction and reconstruction of bridges and tunnels by general order a less clearance than eight feet six inches from the center line of the track at a height of not to exceed six feet above the top of the rail and a clearance of less than eight feet six inches from the center line of the track at a point which shall not be less than 14 feet 6 inches above the top of the rail.

Sec. 42. Minnesota Statutes 1974, Section 219.47, is amended to read:

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219.47 EXCEPTIONS. The ~~department commissioner~~ may upon application made, after a thorough investigation and hearing in any particular case, permit any common carrier or any person or corporation to which Laws 1913, Chapter 307, as amended, applies to erect any overhead or side obstruction at a less distance from the track than herein provided for, and to construct any track or tracks at a less clearance than herein provided for, and to reconstruct and maintain the same when in the judgment of ~~said department~~ the commissioner a compliance with the clearance prescribed herein would be unreasonable or unnecessary or the erection or construction of such overhead or side obstruction or tracks or the reconstruction and maintenance of the same at a less clearance than herein provided would not create a condition unduly hazardous to the employes of such common carrier or any person or corporation.

Sec. 43. Minnesota Statutes 1974, Section 219.51, is amended to read:

219.51 PENALTIES. Any common carrier, corporation, or person subject to the provisions of sections 219.45 to 219.53 violating any of the provisions thereof, shall be liable to a penalty of not more than \$500 for each violation; and if any common carrier, person, or corporation shall thereafter fail to correct any violation of sections 219.45 to 219.53 when ordered to correct the same by the ~~department commissioner~~ and has failed to do so within the time provided in the order of the ~~department commissioner~~, and no appeal has been taken from the order, then the failure of such common carrier, person, or corporation to correct the condition causing a violation of sections 219.45 to 219.53 as in the order of the ~~department commissioner~~ provided shall constitute a new and separate offense distinct and separate from the original violation of sections 219.45 to 219.53, such penalty to be recovered in a suit to be brought in the name of the state of Minnesota by the attorney general or under his direction in any court having jurisdiction thereof in the locality where such violation shall have been committed, and it shall be the duty of the attorney general under the direction of the ~~department commissioner~~ to bring such suit upon duly verified information being lodged with him by any person of such violation being committed, and it shall also be the duty of the ~~department commissioner~~ to lodge with the attorney general information of any such violation as may come to ~~its~~ his knowledge.

Sec. 44. Minnesota Statutes 1974, Section 219.52, is amended to read:

219.52 INSPECTORS OF BUREAU OF LABOR; DUTIES. Where any structure is at a less distance from the track than as provided by sections 219.45 to 219.53 the ~~department commissioner~~ shall provide for warning signs to be placed thereon of such design and type as the ~~department commissioner~~ shall deem proper unless the ~~department commissioner~~ shall determine such a sign is unnecessary. It shall be the duty of the railroad inspectors of the department of labor and in-

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dustry to report to the ~~department~~ commissioner and to the attorney general any violation of the provisions of sections 219.45 to 219.53 of which they may obtain knowledge.

Sec. 45. Minnesota Statutes 1974, Section 219.54, is amended to read:

219.54 FREIGHT PLATFORMS. Every railroad company shall provide at all stations in statutory cities containing 250 inhabitants or more within 30 days after written notice, served in the same manner as a summons in district court, from the city council of such city requiring such company so to do, and at other stations and sidings when required by the ~~department-commissioner~~ commissioner, immediately alongside of its tracks or sidetracks, platforms with approaches at each end, suitable and convenient for loading upon and unloading from its cars heavy machinery and other freight. Such platforms shall be at least 12 feet wide, strongly built, and floored with plank at least three inches thick. The platforms, exclusive of approaches, shall be at least 32 feet long and of the height of the floor of an ordinary box car, and the approaches of such grade that heavily loaded teams can be driven up and down the same. Any such company failing to comply with the provisions of this section shall forfeit to the state not less than \$500 nor more than \$1,000 for every 30 days that such failure shall continue.

Sec. 46. Minnesota Statutes 1974, Section 219.55, is amended to read:

219.55 LOADING PLATFORMS. When required by the ~~department-commissioner~~ commissioner, every railroad company shall construct and maintain at each station and siding a suitable platform for the purpose of loading grain, livestock and other commodities into its cars for shipment. The ~~department-commissioner~~ commissioner may require the enlargement of any platform so constructed or the construction of additional platforms at any such station or siding, when it deems it necessary for that purpose. Every such company which shall fail to construct any such platform within 60 days after the service on it of the order of the ~~department-commissioner~~ commissioner requiring such construction, shall forfeit to the state \$25 for each day thereafter that such platform remains unconstructed.

Sec. 47. Minnesota Statutes 1974, Section 219.562, Subdivision 3, is amended to read:

Subd. 3. Should any dispute arise as to the adequacy of the facilities provided for in subdivision 1, it may be submitted for final determination to the ~~public service commission-commissioner~~ commissioner after notice of the hearing to affected parties.

Sec. 48. Minnesota Statutes 1974, Section 219.65, is amended to read:

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219.65 CARS IN TRAIN; POWERS OF COMMISSIONER. The ~~department-commissioner~~ may from time to time after full hearing and for good cause shown increase the minimum percentage of cars in a train required to be operated by power or train brakes, and a failure to comply with any requirement of the ~~department-commissioner~~ shall be subject to a like penalty as a failure to comply with any requirement of sections 219.58 to 219.66.

Sec. 49. Minnesota Statutes, 1975 Supplement, Section 219.662, Subdivision 5, is amended to read:

Subd. 5. Each such railroad shall notify the ~~department of public service-commissioner~~ of the date that each such locomotive comes into compliance with the provisions of this section. The notification shall state the serial number or other identification of the locomotive.

Sec. 50. Minnesota Statutes, 1975 Supplement, Section 219.662, Subdivision 6, is amended to read:

Subd. 6. Each railroad affected by the provisions of this section shall maintain at a designated location a list or schedule of the locomotives hereinabove referred to. It shall set forth, along with other information, the date that the speed indicator or speed recorder referred to herein was calibrated and found to be functioning in accordance with the provisions of this section. It shall advise the ~~department of public service-commissioner~~ as to such location.

Sec. 51. Minnesota Statutes, 1975 Supplement, Section 219.662, Subdivision 7, is amended to read:

Subd. 7. The ~~department of public service-commissioner~~ shall enforce the provisions of this section and may issue such order or orders as may be proper to require compliance therewith.

Sec. 52. Minnesota Statutes 1974, Section 219.681, is amended to read:

219.681 REMOVAL OF RAILROAD TRACKS. No company operating a line of railroad in this state shall abandon, close for traffic, or remove any spur, industrial, team, switching or side track which has been used directly by the shipping public or any member thereof for the loading or unloading of freight without first having obtained the approval of the ~~department-commissioner~~.

Sec. 53. Minnesota Statutes 1974, Section 219.70, is amended to read:

219.70 APPLICATION TO ABANDON. Any such company desiring to abandon any shop or terminal or move any shop or change the location of any terminal in this state shall first make application to the ~~department-commissioner~~ in writing. Before passing upon such appli-

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cation the ~~department-commissioner~~ shall order a public hearing ~~and fix a time and place thereof and require such notice thereof to be given as it deems reasonable~~ in accordance with Minnesota Statutes, Chapter 15 .

Sec. 54. Minnesota Statutes 1974, Section 219.71, is amended to read:

219.71 HEARING; ORDER. In the hearing on the abandonment or removal of a shop or terminal , if it ~~shall be made to appear to the department-commissioner determines~~ that the abandonment of any shop or terminal or the change of any shop or terminal will result in efficiency in railroad operation and will not substantially injure the public or be detrimental to the public welfare, such petition may be granted, otherwise the same shall be denied.

Sec. 55. Minnesota Statutes 1974, Section 219.741, is amended to read:

219.741 APPLICATION FOR REMOVAL. Any railroad company desiring to abandon, close for traffic, or remove any of its tracks described in section 219.681 shall first make application to the department in writing. Before passing upon such application the ~~department-commissioner~~ shall fix a time and place for hearing and a notice of such hearing shall be served upon all interested persons so far as known to the ~~department-commissioner~~ .

Sec. 56. Minnesota Statutes 1974, Section 219.742, is amended to read:

219.742 PROCEDURE; APPEAL. The procedure before the ~~department-commissioner~~ and the right of appeal shall be pursuant to and in accordance with Minnesota Statutes ~~1941~~ , Chapter ~~216~~, and ~~acts amendatory thereof~~ 15 .

Sec. 57. Minnesota Statutes 1974, Section 219.751, is amended to read:

219.751 RESTORATION OF TRACKS FOR SERVICE. Subdivision 1. When the ~~department-commissioner~~ is informed of the abandonment, closing for traffic, or removal of any track in violation of section 219.681, ~~it-he~~ shall forthwith order the company which has committed such violation to restore such track for service and to resume service thereon, and if such track has been removed, to relay such track.

Subd. 2. When any such company shall fail to obey an order of the ~~department-commissioner~~ made pursuant to subdivision 1, the ~~department-commissioner~~ , upon verified petition alleging such failure, may apply to the district court of the county in which such company has a principal office, or into which a line of railroad of such company extends, for the enforcement of such order or other appropriate relief.

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The court, upon such notice as it may direct, shall hear such matter as in case of an appeal from an order. On such hearing the findings of fact upon which such order is based shall be prima facie evidence of the matters therein stated, and the court may grant any provisional or other relief, ordinary or extraordinary, legal or equitable, which the nature of the case may require, and may impose a fine of not more than \$500 for each day's failure to obey any writ, process, or order of the court in addition to all other penalties herein provided. A temporary mandatory or restraining order may be made in such proceeding, notwithstanding any undetermined issue of fact, upon such terms as the court may direct.

Sec. 58. Minnesota Statutes 1974, Section 219.85, is amended to read:

219.85 RAILROAD STATIONS, AGENCY SERVICE. Agency service at common carrier railroad stations shall be that required by the public convenience and necessity. No such station shall be abandoned nor agency service thereat reduced or discontinued without the consent of the ~~department of public service commissioner~~ after public notice and hearing. The ~~department commissioner~~ may on ~~its~~ his own motion or upon the petition of any interested party order station agency service at any station established, reestablished or expanded after notice and hearing as herein provided. ~~All~~ Hearings ~~provided herein~~ shall be conducted in the same manner as other hearings before ~~said department~~ the commissioner with not less than 30 days' notice to such persons and in such a manner as may be prescribed by rule of the ~~department commissioner~~ .

Sec. 59. Minnesota Statutes 1974, Section 219.86, is amended to read:

219.86 STATION LIGHTS. The ~~department is hereby authorized and empowered commissioner may~~ , on complaint duly made and after hearing, ~~to order that~~ any railroad company operating within the state ~~shall to~~ provide or cause to be provided suitable electric lights and lighting in and about every railroad station on its lines in this state, including waiting rooms, offices of employees, and station platforms thereof, and they are hereby required to keep and maintain the lighting system in good and proper repair. In case there is no electric light current or connections within 500 feet from such stations, then and in such case, the railroad companies shall provide and maintain in good and proper repair and condition, other suitable lighting in and about the railroad stations and platforms.

Sec. 60. Minnesota Statutes 1974, Section 219.87, is amended to read:

219.87 TOILET ROOMS AT STATIONS. The ~~department is hereby authorized and empowered commissioner may~~ , on complaint duly made, ~~to order that~~ all railroad companies operating within the state

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~~shall to~~ provide or cause to be provided suitable toilet rooms in or immediately adjacent to every railroad station waiting room located on its lines in this state, and they are hereby required to maintain and keep these toilet rooms in a good sanitary condition. In case there is no water and sewerage system in towns where railroad station waiting rooms are located, which extends to a point not more than 300 feet distant from such station waiting rooms, then and in such case the railroad companies shall provide and maintain in good sanitary condition, within a reasonable and convenient distance of the station waiting rooms, a suitable closet or privy.

Sec. 61. Minnesota Statutes 1974, Section 219.92, is amended to read:

219.92 NEW ROADS; NOTICE; FILING OF MAPS AND PROFILES. Every railroad company having constructed any railroad by way of branch or extension or otherwise, before opening the same to public use, shall notify the ~~department~~ commissioner that the same is finished and in a safe condition for operation, and shall file with the ~~department~~ commissioner a map and profile thereof with table of grades, curvatures, and mileage, and a statement of other characteristics of such road and an itemized statement showing the actual cost thereof; all of the foregoing to be in such form as the ~~department-commissioner~~ commissioner shall prescribe and to be attested by the oath of the president or other managing officer, and the chief engineer of the company.

Before the new line is operated as a public road, the ~~department-commissioner~~ commissioner shall inspect the same, or cause it to be inspected, and furnish the company with a certificate showing compliance with the foregoing conditions, and that the road has been inspected and found to be in safe condition for operation.

When it is found desirable to operate any portion of any new railroad built or any new branch or extension, or otherwise, before completion of the same, the ~~department~~ commissioner may, on application, authorize the operation of such portion thereof pending the completion of the entire road under such terms and conditions as the ~~department~~ commissioner may impose in the interests of the public.

Sec. 62. Minnesota Statutes 1974, Section 219.93, is amended to read:

219.93 STOPPING TRAINS AT CROSSINGS. Every company operating a railroad shall cause all trains on such railroad to come to a full stop not less than 10, nor more than 60, rods, before reaching any railroad junction or crossing at grade, unless such stoppage is rendered unnecessary by an interlocking plant or other device approved by the written order of the ~~department-commissioner~~ commissioner, or by the court upon appeal.

Sec. 63. Minnesota Statutes 1974, Section 219.97, Subdivision 2, is

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amended to read:

Subd. 2. Any railroad company neglecting to comply with any order of the ~~department-commissioner~~ made under section 219.03 or section 219.04 shall be liable to a penalty of \$25 for each day such neglect shall continue to be recovered in a civil action in the name of the state and paid into the general fund of the state treasury.

Sec. 64. Minnesota Statutes 1974, Section 219.97, Subdivision 12, is amended to read:

Subd. 12. Any carrier failing to comply with the provisions of section 219.92 or with any order of the ~~department-commissioner~~ made thereunder shall forfeit for each day's default \$100 to be recovered in a civil action in the name of the state of Minnesota.

Sec. 65. Minnesota Statutes 1974, Section 221.011, Subdivision 1, is amended to read:

221.011 **DEFINITIONS.** Subdivision 1. For the purposes of ~~sections 221.011 to 221.291~~ chapter 221, the terms defined in this section have the meanings given them.

Sec. 66. Minnesota Statutes 1974, Section 221.011, Subdivision 2, is amended to read:

Subd. 2. "Department" means the department of public service of Minnesota-transportation.

Sec. 67. Minnesota Statutes 1974, Section 221.011, is amended by adding subdivisions to read:

Subd. 2a. "Commissioner" means the commissioner of transportation.

Subd. 2b. "Commission" means the public service commission.

Sec. 68. Minnesota Statutes 1974, Section 221.011, Subdivision 15, is amended to read:

Subd. 15. "Motor carriers" includes all carriers operating under the authority of sections 221.011 to 221.291 and subject to the ~~regulations of the department-rules or orders of the commissioner or the commission~~.

Sec. 69. Minnesota Statutes, 1975 Supplement, Section 221.011, Subdivision 22, is amended to read:

Subd. 22. "Exempt carrier" means any carrier exempt from chapter 221, or ~~exempted~~ from any other law or ~~regulation-rule~~ by the ~~public service commission commissioner or commission~~.

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are so exempt:

(a) Any person engaged in farming or in transporting agricultural, horticultural, dairy, livestock, or other farm products within an area having a 25 mile radius from his home postoffice. Such carrier may transport other commodities within such area if the destination of each haul is a farm within the above described area. The owner of any truck operating under this provision shall imprint his name and address in prominent visible letters on the outside of the cab of his truck.

(b) Any occasional accommodation service beyond the 25 mile radius from his home postoffice by any person engaged in farming as his primary means of livelihood and actually residing on a farm and whose truck or trucks are licensed under provisions of section 168.013, subdivision 1, paragraph 4a. Occasional accommodation service shall mean not in excess of six trips in any calendar year.

(c) Any person engaged in agricultural pursuits, who owns and uses a truck for transporting the products of his farm, or any person while engaged exclusively in the transportation of fresh vegetables from farms to canneries or viner stations, or from viner stations to canneries, or from canneries to canneries during the harvesting, canning or packing season, or potatoes, sugar beets, wild rice and rutabagas from the field of production to the first place of delivery or unloading, including but not limited to a processing plant, warehouse or railroad siding. This term shall also apply to a manufacturer, producer, dealer or distributor who, in the pursuit of his own business, owns and uses trucks for the purpose of transporting his own products, and shall apply to any person while engaged exclusively in the transportation of pulpwood, cord wood, mining timber, poles, posts, decorative evergreens, wood chips, sawdust, shavings and bark from the place where the products are produced to the point where they are to be used or shipped.

(d) Any person while exclusively engaged in the transportation of dirt and sod within an area having a 50 mile radius from his home postoffice.

(e) Any person while exclusively engaged in the transportation of sand ~~or~~, gravel, bituminous asphalt mix ~~and~~ ~~or~~ crushed rock to or from the point of loading or a place of gathering within an area having a 50 mile radius from his home postoffice or a 50 mile radius from the site of construction or maintenance of public roads and streets.

(f) Any person engaged in the transportation of household goods for the federal government or any agency thereof or the transportation of household goods for the state government or any agency thereof, where competitive bids are required by law shall be exempt from the provisions of section 221.161.

(g) Any person engaged in transporting property or freight, ex-

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cepting household goods and petroleum products in bulk, when the movement is entirely within the corporate limits of a city or between contiguous cities.

(h) Emergency vehicles such as ambulances, tow trucks, and hearses when carrying proper and legal warning devices.

(i) Any person engaged in delivery or spreading of agricultural lime.

(j) Any person engaged in transporting rubbish as defined in section 443.27.

(k) Any person engaged in the transportation of grain samples under such terms and conditions as the ~~department~~ commissioner or commission may prescribe.

Sec. 70. Minnesota Statutes 1974, Section 221.021, is amended to read:

221.021 OPERATION CERTIFICATE OR PERMIT REQUIRED. No person shall operate as a motor carrier without a certificate or permit in full force and effect with respect to such operation. Any certificate or permit shall be suspended or revoked upon conviction of violating any provision of sections 221.011 to 221.291 or any order, rule or regulation of the ~~department-commissioner~~ or commission governing the operation of motor carriers, and upon a finding by the court that the violation was wilful; ~~or~~. The ~~department-commissioner~~ may for good cause, after hearing ~~and upon ten days notice to the holder thereof~~, suspend or revoke any permit for a violation of the provision of the sections noted herein or any order, rule or regulation of the ~~department-commissioner~~ or commission issued pursuant to the provisions of chapter 221.

Sec. 71. Minnesota Statutes 1974, Section 221.031, Subdivision 1, is amended to read:

221.031 RULES FOR OPERATION OF MOTOR CARRIERS. Subdivision 1. The ~~department-commissioner~~ shall prescribe rules and regulations for operation of all motor carriers, including their facilities, accounts, service, safety of operations and equipment, maximum hours of service of drivers, installation of safety devices and proper automatic speed regulators if, in the opinion of the ~~department commissioner~~, there is a necessity therefor. ~~It-The commissioner shall direct the repair and reconstruction or replacement of any inadequate or unsafe motor carrier vehicle or facility.~~ The commissioner may require the construction and maintenance or furnishing of suitable and proper freight terminals, passenger depots, waiting rooms and accommodations or shelters in any city in this state or at any point on the highway traversed which the commissioner, after investigation by the department, may deem just and proper for the protection of passengers or

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property. ~~It~~ The commissioner shall require the filing of annual and other reports including annual accounts of motor carriers, schedules of rates and charges or other data by such motor carriers, regulate such motor carriers in all matters affecting the relationship between them and the traveling and shipping public and prescribe such other rules ~~and regulations~~ as may be necessary to carry out the provisions of this chapter; provided, however, that any motor carrier having gross revenues from all for-hire transportation in any calendar year of less than \$15,000 may, at the discretion of the ~~department~~ commissioner, be exempted from the filing of an annual report, if in lieu thereof such motor carrier files an affidavit, in such form as may be prescribed by the ~~department~~ commissioner, attesting that said gross revenues have not exceeded \$15,000 in the previous calendar year. Motor carrier gross revenues from for-hire transportation, for the purposes of this subdivision only, shall not include gross revenues received from the operation of school buses as defined in Minnesota Statutes ~~1967~~, Section 169.01, Subdivision 6. The commissioner shall make no rules relating to rates or tariffs, or the granting, limiting or modifying of permits or certificates of convenience and necessity, which powers are granted to the commission pursuant to this act. The ~~department~~ commission may extend the termini of any route or alter or change the route of any regular route common carrier upon petition and after finding that public convenience and necessity require such extension, alteration or change.

Sec. 72. Minnesota Statutes 1974, Section 221.041, is amended to read:

221.041 **RATE-MAKING POWERS.** Subdivision 1. The ~~department~~ commission, shall fix and establish just, reasonable and non-discriminatory rates, fares, charges, and the rules and classifications incident to tariffs for all regular route common carriers and petroleum carriers. In prescribing such rates, fares, charges, classifications and rules for the carrying of freight, persons or property, the ~~department~~ commission shall take into consideration the effect of the proposed rates or fares upon the users of the service and upon competitive carriers by motor vehicle and rail and, insofar as possible, avoid rates and fares which will result in unreasonable and destructive competition. In making its determination, the ~~department~~ commission shall consider, among other things, the cost of the service rendered by the carrier, including an adequate sum for maintenance and depreciation, and an adequate operating ratio under honest, economical and efficient management. No such rate or fares shall be put into effect or changed or altered except upon hearing duly had and an order therefor by the ~~department~~ commission, or except as herein otherwise provided. The ~~department~~ commission may authorize such changes ex parte which, in its opinion, are not of sufficient import to require a hearing. In any emergency, the ~~department~~ commission may order a change in existing rates or fares without a hearing. In instances of such ex parte or emergency orders, the ~~department~~ commission shall, within five (5) days, serve a copy of its order granting such change in rates upon all parties

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which the ~~department-commission~~ deems interested in the matter, including all competing carriers. Any interested party shall have 30 days from the date of the issuance of the order to object to the order. If objection is made, the matter shall be set down for hearing with notice to competing carriers.

Subd. 2. No regular route common carrier or petroleum carrier shall charge or receive a greater or less or different compensation for the transportation of passengers or property or for any service in connection therewith than the rates, fares and charges and the rules and classifications governing the same which have been duly approved therefor by order of the ~~department-commission~~; nor shall any regular route common carrier or petroleum carrier refund or remit in any manner or by any device any portion of such rates, fares and charges required to be collected under the ~~department's-commission's~~ order; nor extend to any shipper or person any privilege or facilities in connection with the transportation of passengers or property except such as are authorized under the order of the ~~department-commission~~. No passenger carrying regular route common carrier shall alter or change its time schedules except upon order of the ~~department-commission~~. Such order may be issued ex parte unless the ~~department-commission~~ shall decide that public interest requires that a hearing be had thereon.

Sec. 73. Minnesota Statutes 1974, Section 221.051, is amended to read:

221.051 ABANDONMENT OR DISCONTINUANCE OF SERVICE. No regular route common carrier shall abandon or discontinue any service required under its certificate without an order of the ~~department-commission~~ therefor, except in cases of emergency or conditions beyond its control.

A passenger regular route common carrier may depart from the route over which it is authorized to operate for the purpose of transporting chartered or excursion parties to any point in the state of Minnesota on such terms and conditions as the ~~department-commission~~ may prescribe.

Sec. 74. Minnesota Statutes, 1975 Supplement, Section 221.061, is amended to read:

221.061 OPERATION CERTIFICATE FOR REGULAR ROUTE COMMON CARRIER OR PETROLEUM CARRIER. Any person desiring a certificate authorizing operation as a regular route common carrier or petroleum carrier, or an extension of or amendment to such certificate, shall file a petition therefor with the ~~department-commission~~, which petition shall contain such information as the ~~department may, commission~~ by rule or regulation, may prescribe.

Upon the filing of a petition for a certificate, the petitioner shall pay into the state treasury as a fee for the issuance thereof the sum of

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\$75 and for any transfer or lease of such certificate the sum of \$37.50.

The petition shall be processed as any other petition ~~and~~. The ~~department-commission~~ shall cause a copy and a notice of hearing thereon to be served upon any competing carrier operating into any city located on the proposed route of the petitioner and to such other persons or bodies politic which the ~~department-commission~~ deems interested in the petition. Such competing carrier and other persons or bodies politic are hereby declared to be interested parties to the proceedings.

If, during the hearing, an amendment to the petition is proposed which appears to be in the public interest, the ~~department-commission~~ may allow the same when the issues and the territory are not unduly broadened by the amendment.

Sec. 75. Minnesota Statutes, 1975 Supplement, Section 221.071, is amended to read:

221.071 ISSUANCE OF CERTIFICATE TO REGULAR ROUTE COMMON CARRIER OR PETROLEUM CARRIER. If the ~~department shall find-commission finds~~ from the evidence that the petitioner is fit and able to properly perform the services proposed and that public convenience and necessity requires the granting of the petition or any part thereof, it shall issue a certificate ~~therefor shall be issued of public convenience and necessity to the petitioner~~. In determining whether a certificate should be issued, the ~~department-commission~~ shall give primary consideration to the interests of the public that might be affected thereby, to the transportation service being furnished by any railroad which may be affected by the granting of the certificate and to the effect which the granting of the certificate will have upon other transportation service essential to the communities which might be affected by the granting of the certificate. The ~~department-commission~~ may issue a certificate as applied for or issue it for a part only of the authority sought ~~and may attach to the authority granted such terms and conditions as in its judgment public convenience and necessity may require.~~

The ~~department-commission~~ may grant a temporary certificate, ex parte, valid for a period not exceeding six (6) months, upon a showing that no regular route common carrier is then authorized to serve on the route sought ~~where, that~~ there is no other petition on file with the ~~department-commission~~ covering said route and ~~it appears~~ that there is need for the proposed service.

A certificate which has been issued to a regular route common carrier may be amended by the ~~department-commission~~ on ex parte petition and payment of a fee of \$25 so as to grant an additional or alternate route where there is no other means of transportation over such proposed additional route or between the termini thereon, and such proposed additional route does not exceed ten (10) miles in

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length.

Sec. 76. Minnesota Statutes 1974, Section 221.081, is amended to read:

221.081 SALE OR LEASE OF CERTIFICATE OF REGULAR ROUTE COMMON CARRIER OR PETROLEUM CARRIER. Certificates authorizing operations as a regular route common carrier or as a petroleum carrier may be sold or leased but only upon order of the ~~department~~ commission approving the same. The proposed seller and buyer or lessor and lessee of a certificate shall file a joint petition with the ~~department~~ commission, setting forth the names and addresses of the parties, the identifying number of the certificate and the description of the authority which the parties seek to sell or lease, a short statement of the reasons for the proposed sale or lease, a short statement of the buyer or lessee's present operating authority, if any, a statement of all outstanding claims of creditors which are directly attributable to the operations conducted under said certificate, a copy of the contract of sale or lease and a financial statement with balance sheet and income statement, if existent, of the buyer. If it appears to the ~~department~~ commission from the contents of the petition and from the department's records ~~and~~, files and investigation of the petition that the approval of the sale or lease of the certificate will not adversely affect the rights of the users of the service and will not have an adverse effect on any other motor carrier, the ~~department~~ commission may make an ex parte order granting the same. When the proposed sale or lease is between persons who are direct competitors to a material degree, the petition shall be set down for hearing with notice to the communities which may be affected by the proposed merger and to any other persons the commission or department deems to be interested parties.

Sec. 77. Minnesota Statutes 1974, Section 221.091, is amended to read:

221.091 LIMITATIONS. No provision in sections 221.011 to 221.291 shall authorize the use by any carrier of any public highway in any city of the first class; ~~whether organized under the constitution of the state of Minnesota, Article IV, Section 36, or otherwise,~~ in violation of any charter provision or ordinance of such city in effect January 1, 1925, unless and except as such charter provisions or ordinance may be repealed after that date; nor shall sections 221.011 to 221.291 be construed as in any manner taking from or curtailing the right of any city to reasonably regulate or control the routing, parking, speed or the safety of operation of a motor vehicle operated by any carrier under the terms of sections 221.011 to 221.291, or the general police power of any such city over its highways; nor shall sections 221.011 to 221.291 be construed as abrogating any provision of the charter of any such city ~~now organized and operating under said article IV, section 36,~~ requiring certain conditions to be complied with before such carrier can use the highways of such city and such rights and powers herein

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stated are hereby expressly reserved and granted to such city; but no such city shall prohibit or deny the use of the public highways within its territorial boundaries by any such carrier for transportation of passengers or property received within its boundaries to destinations beyond such boundaries, or for transportation of passengers or property from points beyond such boundaries to destinations within the same, or for transportation of passengers or property from points beyond such boundaries through such municipality to points beyond the boundaries of such municipality, where such operation is pursuant to a certificate of convenience and necessity issued by the ~~department-commission~~ mission .

Sec. 78. Minnesota Statutes 1974, Section 221.101, is amended to read:

221.101 ADDITIONAL AUTHORITY TO PETROLEUM CARRIERS. In addition to the specific authority granted to petroleum carriers, every petroleum carrier holding a certificate as such may transport petroleum products from an origin point he is not authorized to serve when the needs of the shippers he serves because of seasonal failure of supplies require service from such origin point, upon securing permission from the ~~department-commission~~ mission , provided that this provision shall not include the right to enlarge the carrier's destination area.

Sec. 79. Minnesota Statutes 1974, Section 221.111, is amended to read:

221.111 PERMITS TO OTHER MOTOR CARRIERS. All motor carriers other than the regular route common carriers and petroleum carriers shall obtain a permit ~~from the department of public service in accordance with section 221.121~~ from the department of public service in accordance with section 221.121 , including irregular route, livestock, contract and charter carriers, and regular route common carriers and petroleum carriers engaged exclusively in interstate transportation.

Sec. 80. Minnesota Statutes, 1975 Supplement, Section 221.121, is amended to read:

221.121 PETITION; HEARING; ISSUANCE; RENEWAL. Subdivision 1. **PERMIT CARRIERS.** Any person desiring to operate hereunder as a permit carrier, except as a livestock carrier, shall file a petition with the ~~department~~ commission specifying the kind of permit desired, the name and address of the petitioner, and the names and addresses of the officers, if a corporation, and such other information as the ~~department-commission~~ commission may require. The ~~department-commission~~ commission , after notice to interested parties and a hearing, shall issue the permit upon compliance with all laws and regulations relating thereto, if it finds that petitioner is fit and able to conduct the proposed operations, that *petitioner's vehicles meet the safety standards established by the department*, that the area to be served has a need for the transportation services requested in the petition, and that existing permit and certificated carriers in the area to be served have failed to demonstrate that

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they offer sufficient transportation services to meet fully and adequately such needs, provided that no person who holds a permit at the time sections 221.011 to 221.291 take effect shall be denied a renewal thereof upon compliance with other provisions of sections 221.011 to 221.291. A permit once granted shall continue in full force and effect until abandoned or unless suspended or revoked, subject to compliance by the permit holder with all applicable provisions of law and the rules of the ~~department~~ commissioner or commission governing permit carriers. No permit shall be issued to any common carrier by rail, whereby said common carrier will be permitted to operate trucks for hire within this state, nor shall any common carrier by rail be permitted to own, lease, operate, control or have any interest in any permit carrier by truck, either by stock ownership or otherwise, directly, indirectly, through any holding company, or by stockholders or directors in common, or in any other manner. Nothing in sections 221.011 to 221.291 shall prevent the ~~department~~ commission from issuing a permit to a common carrier by rail, whereby such carrier will be given authority to operate trucks wholly within the limits of any municipality or within adjacent or contiguous municipalities or a common rate point served by said railroad and which service shall only be a service supplementary to the rail service now established by such carriers.

The ~~department~~ commission may grant a temporary permit, ex parte, valid for a period not exceeding six months upon a showing there is an immediate and urgent need for the proposed service, pending prompt action by the permit holder to follow regular procedure in securing the permit, and that such immediate and urgent authority from the ~~department~~ commission is in the public interest. A copy of the order granting such temporary permit, ex parte, shall be mailed immediately to interested parties.

The ~~department~~ commission may issue a permit as a contract carrier to such cooperative associations as are described in section 221.011, subdivision 9, notwithstanding the number of its hauling contracts, and provided that such contract carrier shall be permitted to haul its own property.

Subd. 2. **EXTENSIONS OF AUTHORITY.** The ~~department~~ commission may grant extensions of authority ex parte after due notice of a petition has been published. Any party desiring to protest the petition must file its protest by mail or in person within 20 days of the date of notice. If a timely filed protest is received, the matter shall be placed on the calendar for hearing. If a timely protest is not received, the ~~department~~ commission may issue its order ex parte.

Subd. 3. **LIVESTOCK CARRIERS.** Any person desiring to operate hereunder as a livestock carrier shall file a petition with the ~~department~~ commission specifying the kind of permit desired, the name and address of the petitioner, and the names and addresses of the officers, if a corporation, and such other information as the ~~department~~ commission may require.

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The ~~department-commission~~ shall issue the permit upon compliance with all laws and regulations relating thereto unless it finds that petitioner's vehicles do not meet the safety standards ~~set up~~ prescribed by the ~~department~~ commission or that petitioner is not fit and able to conduct the proposed operations. All permits issued hereunder shall be renewed upon compliance with the provisions of this act and the rules of the ~~department-commission~~ .

Sec. 81. Minnesota Statutes, 1975 Supplement, Section 221.131, is amended to read:

221.131 PERMITS; TERMS, FEES, IDENTIFICATION CARDS.

Permits issued pursuant to the provisions of sections 221.011 to 221.291 shall be effective for a 12-month period, commencing on the first day of the month of their issuance and shall continue from year to year thereafter upon payment of the required registration fee and compliance otherwise with law. The permit holder shall pay into the treasury of the state of Minnesota a fee of \$25 for each kind of permit, reinstatement, or extension of authority thereof for which a petition is filed, except on annual renewal, pursuant to section 221.121 and a registration fee of \$20 on each vehicle, including pickup and delivery vehicles, operated by him under authority of such permit during said 12-month period or fraction thereof. Trailers used by petitioner in combination with power units shall not be counted as vehicles in the computation of fees under this section, provided petitioner pays the fees for such power units. The ~~department-commissioner~~ shall furnish a distinguishing identification card for each vehicle or power unit for which a fee has been paid, which identification card shall at all times be carried in the vehicle or power unit to which it has been assigned. Identification cards may be reassigned to another vehicle or power unit without fee by the ~~department-commissioner~~ upon petition of the permit holder. Identification cards issued under the provisions of this section shall be good only for the period for which the permit is effective. The name and residence of the permit holder shall be stenciled or otherwise shown on both sides of each registered vehicle operated under his permit. In the event a permit has been suspended or revoked, the ~~department-commission~~ may consider a petition for reinstatement thereof, upon the same procedure required for an original petition, and may, in its discretion, grant or deny the same. Regular route common carriers and petroleum carriers, operating under sections 221.011 to 221.291, shall annually on or before January 1 of each calendar year, pay into the treasury of the state of Minnesota an annual registration fee of \$20 for each vehicle, including pickup and delivery vehicles, operated during any calendar year.

A fee of \$3 shall be charged for the replacement of an unexpired identification card which has been lost or damaged by the owner.

The provisions of this section are limited by the provisions of any applicable federal law.

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Sec. 82. Minnesota Statutes, 1975 Supplement, Section 221.141, is amended to read:

221.141 INSURANCE OR BONDS OF MOTOR CARRIERS. Subdivision 1. Before any certificate or permit shall be issued to any motor carrier, it shall secure and file with the ~~department commissioner~~ and keep the same at all times in full effect public liability and indemnity insurance in such amount and in such form as the ~~department commissioner~~ shall have prescribed, covering injuries and damage to persons or property occurring on the highways, other than the employees of such motor carrier or the property being transported by such carrier, provided that the ~~department commissioner~~ shall require cargo insurance for certificated carriers, except those carrying passengers exclusively, and may require any permit carrier to file such insurance when it deems necessary to protect the users of the service. Such insurance shall be subject to cancellation for nonpayment of premiums or withdrawals from service of a vehicle or vehicles covered thereby upon not less than 30 days' written notice to the insured and to the ~~department commissioner~~. Such insurance or bond may from time to time be reduced or increased by order of the ~~department commissioner~~. The ~~department commissioner~~ may, if desired by the petitioner, prescribe in lieu of the bond or insurance such other form of security as may be satisfactory. Failure to maintain any required insurance or security shall void the permit or certificate.

Subd. 2. Notwithstanding the contrary provisions of subdivision 1, if a permit carrier having grandfather rights transfers the same to another and the transferee defaults on his contract and has had a permit voided subsequent to January 1, 1965, solely by reason of failure to keep in effect insurance or other security as required by this section, the permit carrier, being the transferor in the transaction, shall have his permit fully reinstated by the ~~department commissioner~~, together with all operating authority granted theretofore, upon his filing with the ~~department commissioner~~, within 15 days after the effective date of this act, public liability and indemnity insurance or bond in the amount and form as the ~~department commissioner~~ prescribes.

Sec. 83. Minnesota Statutes, 1975 Supplement, Section 221.151, is amended to read:

221.151 PERMITS ASSIGNABLE OR TRANSFERABLE. Subdivision 1. Permits, except livestock permits, issued under the provisions of sections 221.011 to 221.291 may be assigned or transferred but only upon the order of the ~~department commissioner~~ approving same after notice and hearing.

The proposed seller and buyer or lessor and lessee of a permit, except for livestock carrier permits, shall file a joint notarized petition with the ~~department commissioner~~ setting forth the name and address of the parties, the identifying number of the permit and the description of the authority which the parties seek to sell or lease, a short statement

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of the reasons for the proposed sale or lease, a statement of all outstanding claims of creditors which are directly attributable to the operation to be conducted under said permit, a copy of the contract of sale or lease and financial statement with balance sheet and income statement, if existent, of the buyer or lessee. If it appears to the ~~department~~ commission, after notice to interested parties and a hearing, from the contents of the petition, from the evidence produced at the hearing, and the department's records ~~and~~, files and investigation that the approval of the sale or lease of the permit will not adversely affect the rights of the users of the service and will not have an adverse effect upon any other competing carriers, the ~~department~~ commission may make an order granting same. Provided, however, that the ~~department~~ commission shall make no order granting the sale or lease of a permit to any person or corporation or association which holds any certificate or permit from the ~~department~~ commission pursuant to chapter 221 or to any common carrier by rail.

Provided further that the ~~department~~ commission shall make no order approving the sale or lease of a permit if the ~~department~~ commission finds that the price paid for such sale or lease of a permit is disproportionate to the reasonable value of said permit considering all assets and good will involved. The ~~department~~ commission shall approve the sale or lease of a permit only after a finding that the transferee is fit and able to conduct the operations authorized under said permit and that the vehicles he proposes to use in conducting such operations meet the safety standards of the ~~department~~ commission. In determining the extent of the operating authority to be conducted by the transferee under the sale or lease of the permit, the past operations of the transferor within the two year period immediately preceding the transfer shall be considered and only such operating authority shall be granted to the transferee as was actually exercised by the transferor under his authority within the two year period immediately preceding the transfer as evidenced by bills of lading, company records, operation records or other relevant evidence.

If any authority to operate as a permit carrier is held by a corporation, any sale, assignment, pledge or other transfer of such stock interest in the corporation which will accomplish a substantial or material change or transfer of the majority ownership of said corporation, as exercised through its stockholders, shall be reported in the manner prescribed in accordance with the rules and regulations of the ~~department~~ commission within 90 days after said sale, assignment, pledge or other transfer of stock. The ~~department~~ commission shall then make a finding whether or not said stock transfer does, in fact, constitute a sale, lease or other transfer of the permit of said corporation to a new party or parties and, if they so find, then the continuance of the permit issued to said corporation shall only be upon the corporation's complying with the standards and procedures otherwise imposed by this section.

Subd. 2. The ~~department~~ commission shall allow a bona fide

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transfer of a permit, except a livestock carrier permit, ex parte without hearing where the transferee of said permit is in fact a member or members of the transferor's immediate family. For the purpose of this subdivision immediate family shall consist only of the lawful spouse, adult child or children, brother or sister of the transferor. Provided further that the immediate family as defined in this subdivision shall not include any person under legal disability or any member of the family regardless of relationship who holds any other permit or certificate pursuant to chapter 221 either as an individual or in partnership or as owner of an interest in a corporation holding a permit or a certificate pursuant to chapter 221.

Provided further that the transfer pursuant to this subdivision shall include:

(1) transfer to a corporation the stock of which is wholly owned by the transferor or the members of his immediate family;

(2) transfer to a partnership or partner consisting solely of the immediate family as defined in this subdivision.

Provided further that said transfer of permit, pursuant to this subdivision, shall comply with the standards set forth in this section based upon the contents of the petition of petitioners, all pertinent information available to the ~~department and the department's commission~~ and the department and their records and files. No determination of the extent of the operating authority previously exercised shall be required.

If it appears to the ~~department-commission~~ that said petition and exhibits do not reasonably comply with the standards set forth in this section, then after notice to interested parties and the petitioners, the ~~department commission~~ shall set the matter down for hearing to determine compliance with this section. Any user of the service, competing carrier or interested party shall have the right to file a protest on such transfer as is provided for in this subdivision by filing a sworn statement with the ~~department-commission~~ within six months from the effective date of said transfer whereupon the ~~department-the commission~~ shall set the matter down for hearing and the continuance of the permit shall only be upon the transferee's compliance with the standards and procedures otherwise imposed by this section.

Sec. 84. Minnesota Statutes 1974, Section 221.161, is amended to read:

221.161 **SCHEDULE OF RATES AND CHARGES.** Subdivision 1. Every permit carrier including a livestock carrier shall file and maintain with the ~~department-commissioner~~ a schedule of rates and charges for the transportation of persons or property. The filing with and acceptance by the ~~department-commissioner~~ of such tariffs, in accordance with ~~its-the rules and regulations of-relating to~~ such schedules, shall constitute notice to the public and all interested parties of

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the contents of such tariffs. All schedules shall be prepared and filed in accordance with the rules and regulations of the ~~department-commissioner~~. The ~~department-commissioner~~ shall not accept for filing schedules which are unjust and unreasonable or unjustly discriminatory or unduly preferential or prejudicial or otherwise in violation of the provisions of this section. If such schedules appear to be unjust or unreasonable or unjustly discriminatory or unduly preferential or prejudicial or otherwise in violation of this section, the ~~department-commission~~ after notification and investigation by the department may suspend and postpone the effective date of such schedules and assign said schedules for hearing upon notice to the permit carrier filing such proposed schedules and to other interested parties, including users of the service and competitive carriers by motor vehicle and rail. At any such hearing, the burden of proof shall be upon the permit carrier filing the proposed schedule of rates and charges to sustain the validity of the proposed schedule of rates and charges. Schedules of rates and charges for the transportation of livestock shall not be subject to rejection, suspension, or postponement or investigation by the ~~department~~ as is provided for other schedules of rates and charges-commission, except as is provided in subdivisions 2 and 3. Such tariffs and subsequent supplements thereto or re-issues thereof shall state the effective date thereof, which shall be not less than ten days subsequent to the date of filing, unless such period of time be reduced by special permission of the ~~department-commission~~.

Subd. 2. Such tariffs, supplements and re-issues shall be prepared and filed in accordance with rules ~~and regulations~~ to be promulgated by the ~~department commissioner~~, and any rates or charges including pickup charges named therein shall be subject to complaint to the ~~department-commission~~ by any interested party, whereupon the ~~department-commission~~ after investigation by the department by order on not less than ten days' notice may set such complaint for hearing, and if at such hearing the complainant submits facts and evidence sufficient to establish proof that such rates or charges complained of are excessive or noncompensatory, the ~~department-commission~~ may order such rates or charges canceled, and require the filing of alternative and reasonable rates and charges, the reasonable level of which at such time shall be indicated by the ~~department-commission~~ in such order.

Subd. 3. Upon the filing of any tariff or subsequent supplement thereto or re-issue thereof, any other carrier shall have the right to petition the ~~department-commission~~ to suspend the taking effect of the same until opportunity has been had for a hearing on the reasonableness of the rates or charges named therein, as herein provided, and the ~~department-commission~~ may so suspend if in its judgment the rates or charges complained of are so unreasonably low as to create destructive competitive practices among or jeopardize the economic position of competing carriers. In determining whether the rates or charges are excessive or noncompensatory the ~~department-commission~~ shall include in its consideration, among other things, the reasonable cost of the services rendered for such transportation, including a reasonable

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return on the money invested in the business and an adequate sum for maintenance and depreciation of the property used.

Subd. 4. The ~~department-commissioner~~ after a suspension and hearing upon a schedule of rates and charges or upon complaint or upon its own initiative, either in extension of any existing complaint or without any complaint whatever, after department investigation and petition, and upon notice to the permit carrier or permit carriers proposing a schedule of rates and charges on any single group of related commodities and to the users of the service and competitive carriers by motor vehicle and rail may set down for hearing said schedule of rates and charges maintained or charged by any or all permit carriers; and, upon a finding, after a hearing, that such schedule of rates and charges are unjust or unreasonable or unjustly discriminatory or unduly preferential or prejudicial or otherwise in violation of any of the provisions of this section, the ~~department-commissioner~~ may prescribe minimum rates and charges and the rates, rules and practices thereafter to be maintained and applied by such permit carrier or permit carriers. In any such hearing the burden of proof shall be upon the permit carrier or permit carriers whose schedules of rates and charges are under investigation to show that said schedules are not below a minimum reasonable level or are not noncompensatory. Schedules of rates and charges for the transportation of livestock shall not be subject to rejection, suspension, postponement or investigation by the ~~department~~ as is provided for other schedules of rates and charges, commissioner except as is provided in subdivisions 2 and 3.

Sec. 85. Minnesota Statutes 1974, Section 221.171, is amended to read:

221.171 COMPENSATION OF PERMIT CARRIERS FIXED BY SCHEDULES OF RATES AND CHARGES. No permit carrier shall charge or receive a greater or less or different compensation for the transportation of persons or property or for any service in connection therewith, than the rates and charges named in the carrier's schedule on file and in effect with the ~~department-commissioner~~ including any rate fixed by the ~~department-commissioner~~ under the provisions of section 221.161; nor shall any permit carrier refund or remit in any manner or by any device, directly or indirectly, the rates and charges required to be collected by him under his schedules or under the rates, if any, fixed by the ~~department-commissioner~~ department-commissioner .

Sec. 86. Minnesota Statutes 1974, Section 221.181, is amended to read:

221.181 INTERSTATE CARRIERS; PERMITS, REGULATION. The ~~department-commissioner~~ or commission, consistent with their respective powers pursuant to this chapter, shall have the power and authority to grant permits to interstate carriers and to supervise and regulate their operations to the extent that such supervision and regulation constitutes a valid exercise of the police powers of the state.

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The issuance, renewal and cancellation of permits to interstate carriers shall follow the same procedure and be based upon the same conditions as herein provided for other permit carriers.

Sec. 87. Minnesota Statutes 1974, Section 221.201, is amended to read:

221.201 PETITION FOR EXCEPTION. Any person operating a commercial motor vehicle may apply to the department commissioner for an exemption from the restriction imposed by section 221.191. The petition shall set forth good and sufficient reasons why his operation over the highways during the restricted hours constitutes an emergency or necessity justifying exemption. The department commissioner shall have the power to issue or refuse to issue the exemption applied for.

Sec. 88. Minnesota Statutes, 1975 Supplement, Section 221.221, is amended to read:

221.221 ENFORCEMENT POWERS. Transportation representatives of the department for the purpose of enforcing the provisions of sections 221.011 to 221.291 and the rules and regulations of the department commissioner and commission issued pursuant hereto, but for no other purpose, shall have all the powers conferred by law upon police officers. The powers shall include the authority to conduct inspections at designated highway weigh stations, or during stops authorized under section 221.211 or under other appropriate circumstances anywhere within the state for the purpose of viewing log books, chauffeur licenses, health certificates and other documents or equipment required to be maintained within commercial motor vehicles operating in Minnesota pursuant to applicable state motor vehicle carrier laws and regulations. ~~Every transportation representative, before entering upon his duties, shall take and subscribe an oath of office and furnish a bond to the state in the sum of \$2,000, conditioned as provided by section 387.01, to be approved by and filed in the office of the secretary of state.~~

Sec. 89. Minnesota Statutes 1974, Section 221.231, is amended to read:

221.231 RECIPROCAL AGREEMENTS. The ~~department is hereby empowered to~~ commissioner may enter into reciprocal agreements with the regulatory bodies of other states and the provinces of the dominion of Canada, whereby the payment of the vehicle fee provided in section 221.131 hereof may be waived in whole or in part as to residents of or corporations or partnerships having an established place of business in the state or province, entering into the reciprocal agreement with the department commissioner, provided that reciprocal privileges are extended under such agreement to residents of this state and to corporations or partnerships who have an established place of

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business in this state.

Sec. 90. Minnesota Statutes 1974, Section 221.261, is amended to read:

221.261 COMPLAINTS, ACTION IN DISTRICT COURT. An action or proceeding may be instituted, upon verified complaint of the ~~department-commissioner~~ or any interested person in any district court of any county wherein a motor carrier has a principal office or into which its route extends, for the enforcement of any provision of sections 221.011 to 221.291, or any order, rule or directive of the ~~department-commissioner~~ or commission herein authorized, and the court may grant provisional or other relief, ordinary or extraordinary, legal or equitable, which the nature of the case may require, including temporary mandatory or restraining orders. Except when there is a constitutional right to trial by jury not expressly waived, all such proceedings shall be tried summarily by the court and such matters shall take precedent over all other matters except criminal cases.

Sec. 91. Minnesota Statutes 1974, Section 221.271, is amended to read:

221.271 MOTOR CARRIERS, LIABILITY. Any motor carrier which shall do or cause to be done any unlawful act as herein provided, or fail to perform any duty prescribed, or violate any duly established order, rule or directive of the ~~department-commissioner~~ or commission, or which shall aid or abet in the performance of any unlawful act or in the failure to perform any such duty, shall be liable in damages to any person injured thereby, and such person, if he recovers, shall be allowed, in addition to damages, reasonable attorneys' fees, together with costs and disbursements.

Sec. 92. Minnesota Statutes 1974, Section 221.281, is amended to read:

221.281 VIOLATIONS, PENALTIES. Any regular route common carrier or petroleum carrier, or any officer, agent or employee of any such carrier, failing to comply with any final order, decision, rule, regulation or directive, or any part or provision thereof, of the ~~department-commissioner~~ or commission, or any provision of sections 221.011 to 221.296, shall be subject to a penalty of \$50 for each and every day of such failure, to be recovered for the state in a civil action brought by the ~~department-commissioner~~. Any such carrier granting any special rate, rebate, drawback, or directly or indirectly charging, demanding, or collecting a greater or less compensation than provided by its regular established schedule of rates and charges, shall be punished by a fine not exceeding \$5,000 for each such offense.

Sec. 93. Minnesota Statutes, 1975 Supplement, Section 221.291, is amended to read:

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221.291 MISDEMEANORS, OFFENSES. Subdivision 1. Any person who commits, procures, aids or abets or conspires to commit, or attempts to commit, aid or abet in the violation of any provision of chapter 221 or any valid order or rule of the ~~department commissioner~~ or commission issued hereunder, whether individually or in connection with one or other more persons or as principal, agent, or accessory, shall be guilty of a misdemeanor, and every person who falsely, fraudulently, forcibly, or willfully induces, causes, coerces, requires, permits or directs another to violate any provision of this chapter, is likewise guilty of a misdemeanor. Every distinct violation shall be a separate offense.

Subd. 2. Any person employing or otherwise directing the driver of any vehicle to require or knowingly to permit the operation of the vehicle upon a highway in any manner contrary to chapter 221 is guilty of a misdemeanor.

Sec. 94. Minnesota Statutes, 1975 Supplement, Section 221.293, is amended to read:

221.293 VIOLATIONS; COMPLAINT, HEARING, CEASE AND DESIST ORDERS. Where any provisions of this chapter or any order adopted thereunder or any rule of the ~~department commissioner~~ or commission has been violated, the ~~department commissioner~~ upon complaint being filed with ~~it-him~~ or on ~~its-his~~ own motion, may issue and serve upon the person engaged in such violation, a complaint stating the charges in that respect, and containing a notice of a hearing upon a day and at a place therein fixed at least ten days after the service of the complaint and notice requiring the person so complained of to appear at the time and place fixed in the notice of hearing and show cause why an order should not be entered by the ~~department commissioner~~ requiring such person to cease and desist from the violation alleged. If upon such hearing the ~~department commissioner~~ shall find that any of the violations alleged in the order to show cause are true, ~~it he~~ shall so find and shall issue and cause to be served upon such person an order requiring such person to cease and desist from such violation. *The district court, upon petition, may enforce such cease and desist order by injunction or other appropriate writ or proceedings.*

Sec. 95. Minnesota Statutes 1974, Section 221.295, is amended to read:

221.295 NOTICE TO METROPOLITAN TRANSIT COMMISSION. Notwithstanding any provision of any statute to the contrary, the metropolitan transit commission shall be notified by the ~~public service commission commissioner~~ public service commission commissioner or commission of any matter pertaining to or affecting public transit or an existing or proposed transit system within the Twin Cities metropolitan transit area, which matter is formally or informally before the ~~public service commission commissioner~~ public service commission commissioner or commission for action or which is under study, including the initiation of any request for action or study and prior to any hearings on other proceedings,

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whether ex parte or otherwise. Further, such notification shall in all cases be given in a manner, at such time, and with such information and data available to the public service commission-commissioner or commission so as to enable the metropolitan transit commission to meaningfully evaluate, participate in, and comment upon the matter. The public service commission-commissioner or commission shall not approve, deny, or otherwise attempt to resolve or act upon any such matter until receipt of the comments and advice of the metropolitan transit commission with respect thereto, but if none are received ~~it-~~ they may act within 30 days after demand therefor upon the metropolitan transit commission, or otherwise by mutual agreement. If the public service commission-commissioner or commission takes action in any way contrary to or different from the comments and advice of the metropolitan transit commission, ~~it-~~ they shall specifically state the reasons and factual data for such action.

Sec. 96. Minnesota Statutes 1974, Section 221.296, Subdivision 2, is amended to read:

Subd. 2. **RULES AND REGULATIONS FOR SAFETY AND SERVICE.** The department of public service-commission shall prescribe rules ~~and regulations~~ for the operation of all local cartage carriers, including their facilities, accounts, service, safety of operation and equipment, maximum hours of service of drivers, installation of safety devices and proper automatic speed regulators if, in the opinion of the department-commission, there is a necessity therefor. ~~It-The~~ commission may require the filing of annual and other reports and shall regulate such local cartage carriers in all matters affecting the relationship between them and the shipping public, and prescribe such other rules and regulations as may be necessary to carry out the provisions of this section. The department commissioner shall investigate the operation of all local cartage carriers, their compliance with all rules ~~and regulations~~ of the department-commissioner or commission and with the provisions of this section and may institute and prosecute any and all actions and proceedings in the proper district court for enforcement of the same. The provisions of sections 221.161 and 221.171 do not apply to local cartage carriers. The commissioner shall make no rules relating to rates or tariffs, or the granting, limiting or modifying of permits or certificates of convenience and necessity, which powers are granted to the commission pursuant to this act.

Sec. 97. Minnesota Statutes 1974, Section 221.296, Subdivision 3, is amended to read:

Subd. 3. **PERMITS REQUIRED.** No person shall operate a local cartage carrier without a permit in full force and effect with respect to such operation. The department commission may revoke or suspend the permit of any local cartage carrier after notice and hearing for violating any provision of this section or any rule or regulation of the commission or the department governing local cartage carriers.

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Sec. 98. Minnesota Statutes, 1975 Supplement, Section 221.296, Subdivision 4, is amended to read:

Subd. 4. **PETITION FOR PERMITS.** Any person desiring to operate hereunder as a local cartage carrier shall file a petition with the ~~department-commissioner~~ specifying the service offered, the name and address of the petitioner, and the names and addresses of the officers, if a corporation, and such other information as the ~~department-commissioner~~ may require. The ~~department-commissioner~~, after notice to interested parties and a hearing, shall issue the permit upon compliance with all laws and regulations relating thereto unless it finds that the area to be served has a sufficient number of local cartage carriers to fully and adequately meet the needs of such area or that the petitioners' vehicles do not meet the safety standards set up by the ~~department-commissioner~~, or that petitioner is not fit and able to conduct the proposed operations. A permit once granted shall continue in full force and effect until abandoned or unless suspended or revoked, subject to compliance by the permit holder with all applicable provisions of law and rules of the ~~department-commissioner~~ governing local cartage carriers.

Sec. 99. Minnesota Statutes, 1975 Supplement, Section 221.296, Subdivision 5, is amended to read:

Subd. 5. **PERMIT FEES.** Upon filing of a petition for a permit the petitioner shall pay to the state treasury as a fee for the issuance thereof the sum of \$50, and shall thereafter pay an annual renewal fee of \$75 plus \$5 per motor vehicle if the local cartage carrier operates less than five motor vehicles, or \$100 plus \$5 per motor vehicle if the local cartage carrier operates at least five but less than 15 motor vehicles, or \$150 plus \$5 per motor vehicle if the local cartage carrier operates 15 or more vehicles provided that said \$5 per motor vehicle charge shall not apply to taxicabs operated pursuant to a local cartage permit. Upon issuance of the permit the ~~department commissioner~~ shall assign the carrier a permit number, which shall be painted or prominently displayed on both sides of all vehicles used by the local cartage carrier under authority of said permit.

Sec. 100. Minnesota Statutes 1974, Section 221.296, Subdivision 6, is amended to read:

Subd. 6. **BONDS.** Local cartage carriers shall comply with the requirements of section 221.141, and before any such permit shall be issued to a local cartage carrier or renewed, such carrier shall secure and file with the ~~department-commissioner~~ and keep the same at all times in full effect, a third party liability bond with corporate surety in the amount of \$5,000 conditional, to pay to the owner all damages to the property being transported by such carrier and all other liabilities to the consignor or consignee arising from the transportation, including conversions of money or property; provided, however, that the aggregate liability of the surety for all breaches of the conditions of the

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bond shall, in no event, exceed the amount of such bond.

Sec. 101. Minnesota Statutes 1974, Section 221.296, Subdivision 7, is amended to read:

Subd. 7. **LIMITATIONS.** Nothing in this section shall be construed in any manner as taking from or curtailing the right of any city to reasonably regulate or control the routing, parking, speed or the safety of operation of any motor vehicle operated by local cartage carriers, nor the general police powers of any city of its highways, nor as abrogating any provision of the charter of any city requiring conditions to be complied with before such local cartage carrier can use the highways of such city, and such rights and powers hereby stated are reserved and granted to such city; but no city shall prohibit or deny the use of the public highways within its territorial boundaries by any local cartage carrier for the transportation of property received within its boundaries to destinations beyond such boundaries, or for the transportation of property from points beyond such boundaries to destinations within the same, or for transporting property from points beyond such boundaries through such municipality to points beyond the boundaries of such municipality, where such operation is pursuant to a permit issued by the department pursuant to an order of the commission .

Sec. 102. Minnesota Statutes, 1975 Supplement, Section 221.296, Subdivision 8, is amended to read:

Subd. 8. **PERMITS TRANSFERABLE.** Permits, issued under the provisions of section 221.296 may be transferred but only upon the order of the ~~department-commission~~ approving same after notice and hearing.

The proposed seller and buyer of a permit, shall file a joint verified petition with the ~~department-commission~~ setting forth the legal name and address of the parties, the permit number and the description of the authority which the parties seek to sell, a verified statement of the reasons for the proposed sale, a verified statement of all outstanding claims of creditors which are attributable to the business conducted under said permit, a copy of the contract of sale and financial statement with balance sheet and income statement, if existent, of the buyer and the seller. After notice to interested parties and a hearing the ~~department-commission~~ shall not make an order approving and allowing the sale unless the ~~department-commission~~ finds that the buyer is fit and able to conduct the business authorized under said permit, that the vehicles he proposes to use in conducting such business meet the safety standards of the department, that the price paid for the purchase of the permit is not disproportionate to the reasonable value of the permit considering all assets and good will sold, that the proposed sale is in the best interest of the shipping public, and that the seller has legally engaged in the transportation of property or freight for hire on a meaningful basis as determined by the commission within the two

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year period immediately preceding the sale as proven by accurate and complete bills of lading, company records, operation records, or other relevant evidence. For purposes of determining said two year period, any divesting of interest or control shall be deemed the date of the sale and the ~~department-commission~~ shall look to the substance of the transaction rather than the form. Any agreement for the transfer or sale of a permit shall be reported and filed with the ~~department-commission~~ within 30 days of such agreement.

If any authority to operate as a local cartage carrier, is held by a corporation, any sale, assignment, pledge or other transfer of such stock interest in the corporation which will accomplish a substantial or material change or transfer of the majority ownership of said corporation, as exercised through its stockholders, shall be reported in the manner prescribed ~~in accordance with~~ by the rules ~~and regulations~~ of the ~~department-commission~~, within 30 days after said sale, assignment, pledge or other transfer of stock. The ~~department-commission~~ shall then make a finding whether or not said stock transfer does, in fact, constitute a sale, or other transfer of the permit of said corporation to a new party or parties and, if they so find, then the continuance of the permit issued to said corporation shall only be upon the corporation's complying with the standards and procedures otherwise imposed by this section.

The ~~department-commission~~ shall allow a bona fide transfer of a permit, ex parte without hearing where the transferee of said permit is in fact a member or members of the transferor's immediate family. For the purpose of this paragraph immediate family shall consist only of the lawful spouse, adult child or children, brother or sister of the transferor. A transfer pursuant to this paragraph shall include:

- (1) transfer to a corporation the stock of which is wholly owned by the transferor or the members of his immediate family.
- (2) transfer to a partnership or partner consisting solely of the immediate family as defined in this paragraph.

Sec. 103. Minnesota Statutes 1974, Section 221.55, is amended to read:

221.55 CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY. No person or corporation shall engage in the transportation described in section 221.54 without a certificate of public convenience and necessity from the ~~department of public service of Minnesota-commission~~ authorizing such operation. Such certificate shall be issued by the ~~department-commission~~ pursuant to application, notice and hearing as provided in sections 221.061 and 221.071, and the issuance of certificates and the transportation covered thereby shall be governed by the provisions of such sections and by sections 221.031, 221.041, 221.051 and 221.081, applying to auto transportation companies, insofar as such provisions are not inconsistent with sections 221.54 and

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221.55.

Sec. 104. Minnesota Statutes 1974, Section 221.61, is amended to read:

221.61 NECESSITY OF OBTAINING FEDERAL AUTHORITY; REGISTRATION OF AUTHORITY. It shall be unlawful for any motor carrier to perform any act of transportation in interstate commerce for hire upon the public highways of this state requiring authority therefor from the interstate commerce commission pursuant to the provisions of the federal motor carrier act or any amendment thereof without having first obtained such authority and without first having registered such authority with the ~~department of public service~~ commissioner .

Sec. 105. Minnesota Statutes 1974, Section 221.62, is amended to read:

221.62 EXEMPT INTERSTATE CARRIERS; REGISTRATION OF EXEMPTION AUTHORITY. It shall be unlawful for any carrier engaged in interstate commerce exempt from seeking appropriate authority for transportation service from the interstate commerce commission, if written authority for such exemption is provided for by the interstate commerce act, to perform any transportation service for compensation upon the public highways of this state without first having registered such written authority for exemption with the ~~department of public service~~ commissioner .

Sec. 106. Minnesota Statutes 1974, Section 221.63, is amended to read:

221.63 AFFIDAVIT OF EXEMPTION. In any case where the interstate commerce act exempts any carrier engaged in interstate commerce for hire from the necessity of procuring authority for any transportation service from the interstate commerce commission and does not provide for written authority for such exemption, such exempted carrier shall file with the ~~department of public service~~ commissioner a sworn affidavit disclosing the fact of the exemption and specifying the nature of the commodity carried and the specific nature of the service offered before performing any such interstate transportation service for compensation upon the public highways of this state. Such affidavit shall be executed by the individual owner of the carrier, or if such carrier be a partnership, by one of the partners, or if a corporation, by an officer or managing agent thereof.

Sec. 107. Minnesota Statutes, 1975 Supplement, Section 221.64, is amended to read:

221.64 REGISTRATION FEE; EXEMPTIONS. Such registration as herein provided shall be granted upon petition, without hearing, upon payment of an initial filing fee in the amount of \$25. Upon petition, and payment of said fee if applicable, the ~~department of public service~~

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commissioner shall furnish to the registration holder a distinguishing identification stamp for each motor vehicle included in said registration which stamp shall at all times be carried in the registered vehicle of the registration holder. For each identification stamp issued, the ~~department~~ commissioner shall collect a fee of \$5 to be deposited in the state treasury, provided that a lesser fee may be collected pursuant to the terms of reciprocal agreements between the ~~department~~ commissioner and the regulatory bodies of other states or provinces of the dominion of Canada.

Sec. 108. Minnesota Statutes 1974, Section 221.65, is amended to read:

221.65 **RECIPROCAL AGREEMENTS.** Nothing in sections 221.61 to 221.68 shall be construed to impair the authority of the ~~department of public service~~ commissioner to enter into reciprocal agreements with the regulatory bodies of other states and the provinces of the Dominion of Canada, as provided in Minnesota Statutes ~~1961~~, Section 221.231.

For the purposes of section 221.231, the commissioner shall be deemed to be the successor of the department of public service. The commissioner may exercise any power, duty or function heretofore conferred by law or agreement upon the department of public service to the extent necessary to preserve any reciprocal agreement heretofore concluded under the provisions of section 221.231. Nothing in this section shall be construed to prevent the negotiation of new or replacement agreements as conditions and circumstances may warrant.

Sec. 109. Minnesota Statutes 1974, Section 221.66, is amended to read:

221.66 **ENFORCEMENT.** If any motor carrier operates in violation of any provision of sections 221.61 to 221.68, the ~~department of public service~~ commissioner or ~~its~~ his duly authorized agent or any carrier or other interested person may institute an action or proceeding upon verified complaint in any district court of any county wherein such motor carrier has designated a resident agent for service of process, or in the district court of Ramsey county, for enforcement of any provisions of sections 221.61 to 221.68 and enjoining upon such motor carrier obedience to sections 221.61 to 221.68. The court may grant provisional or other relief, ordinary or extraordinary, legal or equitable, which the nature of the case may require, including temporary or mandatory restraining orders or injunctions.

Sec. 110. Minnesota Statutes 1974, Section 221.68, is amended to read:

221.68 **VIOLATIONS; PENALTIES.** Any person who violates or procures, aids, or abets violation of, or fails to comply with, the provisions of sections 221.61 to 221.68 or any valid order or rule of the ~~de-~~

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~~partment of public service commissioner or commission~~ issued hereunder shall be guilty of a misdemeanor; and, additionally, shall be subject to a penalty of \$50 for each and every day of such failure to so comply, to be recovered for the state in a civil action. Each distinct violation shall be a separate offense.

Sec. 111. Minnesota Statutes 1974, Section 222.01, is amended to read:

222.01 SALE AND LEASE OF AIR RIGHTS AFFECTING PUBLIC SERVICE CORPORATIONS. Before any air rights over or affecting the property or easements of any railway company or other public utility company are leased, sold, acquired or used, application shall be made to the ~~department of public service~~ commissioner of transportation for permission to acquire or use such rights and ~~the said department-commissioner~~ is hereby authorized to hear said application and to determine whether or not such permission shall be granted; provided, that in all cases where said air rights are within the corporate limits of cities of the first class, said rights shall only be acquired, held or used with the consent of the common council or other governing body of such city.

Sec. 112. Minnesota Statutes 1974, Section 222.34, is amended to read:

222.34 LAND GRANT RAILROAD COMPANIES. Every land grant railroad company shall keep at some public office within this state the originals, or copies, of all books, papers, and records of every description relating to lands sold, contracted, encumbered, or owned by it, so as to show clearly all material matters connected with its grant and the management of its lands. Such books and papers shall be open to inspection by the commissioner of finance, ~~department of public service~~ the commissioner of transportation, or any agent appointed by the governor for that purpose. Every such corporation failing to comply with the provisions of this section and section 222.33 shall forfeit to the state \$500 for each month it shall fail to maintain the offices specified therein or either of them. Proceedings to recover such forfeiture shall be prosecuted by the attorney general in the name of the state.

Sec. 113. Minnesota Statutes 1974, Section 222.38, is amended to read:

222.38 IN CITIES OF FIRST CLASS; POWERS AND DUTIES. In every city of this state, now or hereafter having a population exceeding 50,000, into or through which two or more commercial steam railways may pass, and in which each or two or more of such commercial steam railways may maintain separate and independent passenger stations at different points within such city, or in which the union passenger depot facilities furnished and provided by such railways are insufficient and inadequate to meet the needs and comfort, or insure the safety,

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health, and convenience of the traveling public, a body corporate may be formed for the purpose of supplying the means and doing the work necessary to acquire sufficient lands, and of erecting, constructing, and maintaining a union passenger depot, so situated, as to location, and of such dimensions, and so equipped, as to adequately meet all the reasonable requirements of passengers entering or departing from such city over any of such commercial steam railways.

Any such corporation, when organized pursuant to the power hereby granted, shall possess all the rights, powers and privileges, and be subject to all the duties and liabilities of railway corporations under the laws of this state, and shall also be subject to the regulation and control of the ~~department of public service~~ commissioner of transportation as provided in sections 222.39 to 222.45.

Sec. 114. Minnesota Statutes 1974, Section 222.40, is amended to read:

222.40 MAPS, PLATS, AND DRAWINGS; DUTIES OF COMMISSIONER. When a corporation has been organized by complying with the foregoing provisions it shall, within three months thereafter cause to be filed with the ~~department commissioner of transportation~~ maps, plats, and drawings showing the real property to be taken by said corporation for its use, also the location, dimensions, and general plans of the building, sheds, tracks, and approaches to be built by said corporation on the lands so designated. The ~~department commissioner~~ shall thereupon examine the maps, plans, and drawings for the purpose of determining whether they meet the reasonable requirements of the city for the purpose of a union depot, and shall, within 30 days after the filing, render a decision thereon. In case the ~~department commissioner~~ shall find the maps, plans, and drawings inadequate for the purposes herein provided, it shall so find and point out in detail such inadequacies; and the corporation shall, within 60 days thereafter, so alter its plans and drawings as to conform to the direction of the ~~department commissioner~~; and when so altered to comply with such direction, the ~~department commissioner~~ shall thereupon forthwith issue an order ~~under its seal~~ approving of the maps, plats, and drawings; and thereupon such corporation may exercise the powers, rights, and privileges herein conferred to the exclusion of all other persons or corporations.

Sec. 115. Minnesota Statutes 1974, Section 222.41, is amended to read:

222.41 INADEQUATE FACILITIES; COMPLAINT BY RAILROAD; POWERS OF COMMISSIONER AND DISTRICT COURT. If, at any time after such union depot shall be completed and opened for the use of the railroads and the public, any railroad using the same shall claim that the facilities afforded it by the corporation, maintaining any such union depot, are inadequate for the proper discharge of its business as a public carrier, it shall make a complaint in writing, specifying the particulars of its claim, and file the same with the ~~department commis-~~

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sioner , who shall thereupon give notice by mailing a copy of such complaint to the corporation operating and maintaining any such union depot;

Within 20 days after the service of such complaint by the ~~department~~ commissioner , the corporation maintaining any such union depot shall make and file its answer thereto with the ~~department~~ commissioner , and thereupon the matter shall be at issue and ready for a hearing before and determination by the ~~department~~ commissioner ;

If, upon a hearing the charges shall be sustained, the ~~department~~ commissioner shall thereupon make an order directing such changes to be made as will meet the requirements of the business of the complaining railroad;

In case any corporation maintaining such union depot shall fail, for 30 days after notice of such order, to begin the changes ordered by the ~~department~~ commissioner , the district court of the county within which any such union depot is located, shall have jurisdiction to compel the corporation to comply with the order or orders of the ~~department~~ commissioner .

Sec. 116. Minnesota Statutes 1974, Section 222.44, is amended to read:

222.44 RATES TO BE PAID BY RAILROADS; POWER OF COMMISSIONER; PAYMENTS. Each railway making use of such union passenger depot shall pay for its use, to the corporation maintaining the same, in proportion to the amount or extent of such use which shall be computed upon a wheelage basis, or such other basis as the ~~department~~ commissioner may determine as just and reasonable.

In the use of any such union depot all commercial ~~steam~~ railways shall stand upon an equal right as to any such use, and any favoritism to, or discrimination against, any railway company in that respect is hereby expressly forbidden and declared to be unlawful.

The rate or rates to be paid by any and all of the railroads for the use of such union depot shall be fixed and determined by the ~~department~~ commissioner , and shall be computed by it on such a basis as will produce, in the aggregate, a sum sufficient to pay the interest upon the bonds issued and secured by trust deeds or mortgages on the property of any such corporation; the cost of operation, maintenance, repairs and renewals; all taxes, assessments, or charges, either levied or assessed by the public authorities on said property; and a dividend upon the par value of the capital stock of any such corporation not exceeding six percent per annum.

In addition to the foregoing, there shall be set aside each year out of the earnings of the corporation, a sum not exceeding two percent of the bonded indebtedness as a sinking fund.

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On the first day of each month, or as soon thereafter as may be practicable, any such union depot company shall furnish each railroad, using the facilities of such union depot, with a statement of account, showing the sums due by it for the previous month on the basis fixed by the ~~department commissioner~~ , and the sum so due from each railroad to such union depot company for such use for such preceding month, shall be due and payable on or before the twentieth of the month in which such statement is rendered, and shall be paid by each railroad to such union depot company.

Sec. 117. Minnesota Statutes 1974, Section 222.45, is amended to read:

222.45 RAILROAD FAILING TO USE; POWERS AND DUTIES OF COMMISSIONER AND ATTORNEY GENERAL. If any railroad entering into or passing through any city wherein a union depot has been built pursuant to sections 222.38 to 222.45, shall neglect or refuse to use the same upon the terms and conditions prescribed in sections 222.38 to 222.45, such neglect or refusal shall be made known in writing by such union depot corporation to the ~~department commissioner~~ , who shall thereupon order the railroad complained against to show cause before ~~it-him~~ why an order should not be issued by ~~it-the commissioner~~ requiring the railroad to make use of such union depot according to the provisions of sections 222.38 to 222.45, and any such union depot company shall also be given notice of the time and place of such hearing. If, at the time and place so fixed, it shall appear that facilities have been provided by such union depot company for use of such union depot by such railroad, and that such facilities are reasonably adequate to care for the business of the railroad, then the ~~department commissioner~~ shall ~~make its order in writing, under its seal, requiring~~ the railroad to make exclusive use of the union depot according to the intent and purpose of sections 222.38 to 222.45.

If such railroad shall neglect or refuse to obey the order of the ~~department commissioner~~ , the ~~department commissioner~~ shall certify the facts in such case to the attorney general, and thereupon it shall be the duty of the attorney general to proceed against such railroad in the district court of the county in which such union depot may be located, to compel performance by such railroad of such order by appropriate proceeding.

Sec. 118. Minnesota Statutes 1974, Section 360.017, Subdivision 1, is amended to read:

360.017 STATE AIRPORTS FUND. Subdivision 1. **CREATION.** There is hereby created a fund to be known as the state airports fund. Such fund shall consist of all moneys appropriated to it, or directed to be paid into it, by the legislature. The state airports fund shall be paid out on authorization of the commissioner and shall be used to acquire, construct, improve, maintain, and operate airports and other air navigation facilities and to assist municipalities in the acquisition, con-

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struction, improvement, and maintenance of airports and other air navigation facilities. Salaries and expenses in the department of transportation related to aeronautic planning, administration and operation shall be paid from the state airports fund. All allotments of money from the state airports fund for salaries and expenses shall be approved by the commissioner of finance.

Sec. 119. **REPEALER.** Minnesota Statutes 1974, Sections 161.02; 161.03; 169.27; 218.051; 218.061; and 360.014, are repealed.

Sec. 120. **APPROPRIATION.** There is appropriated from the general fund to the commissioner of transportation the following amount:

(a) To organize the department.....\$75,000

(b) To initiate the study required by section 3, subdivision 3, clause (d).....\$75,000

This appropriation is available upon his appointment and shall not lapse but shall remain available until fully expended.

Sec. 121. **EFFECTIVE DATE.** Section 2, subdivision 1, of this act is effective July 1, 1976. The remaining provisions of this act, except as otherwise provided in this section, are effective upon the appointment of the commissioner. Former departments or agencies shall continue to exercise their functions, powers and duties which are transferred by this act until the commissioner notifies the commissioner of administration that the department of transportation is ready to commence operation. In the initial organization of the department the commissioner shall designate an advisory task force pursuant to section 15.059 consisting of representatives from the departments of administration, aeronautics, highways, public service and the state planning and energy agencies to assist him in the initial organization of the department.

Approved April 2, 1976.

CHAPTER 167—H.F.No.1026

[Coded]

An act relating to land use planning; establishing a land use planning assistance program of grants for local government units to be administered by the state planning agency; appropriating money.

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

Section 1. **[4.26] STATE PLANNING AGENCY; LOCAL LAND USE PLANNING; GRANTS.** Subdivision 1. In order to improve the land use decision-making capability of local government, the state

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