

CHAPTER 459—S.F.No. 1293

An act relating to insurance; providing for certain group coverages to be continued; amending Minnesota Statutes 1978, Chapter 60A, by adding a section.

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

Section 1. Minnesota Statutes 1978, Chapter 60A, is amended by adding a section to read:

[60A.082] GROUP INSURANCE; BENEFITS CONTINUED IF INSURER CHANGED. A person covered under group life, group accidental death and dismemberment, group disability income or group medical expense insurance, shall not be denied benefits to which he is otherwise entitled solely because of a change in the insurance company writing the coverage or in the group contract applicable to the person. "Insurance Company" shall include a service plan corporation under chapter 62C or 62D.

The commissioner shall promulgate rules to carry out this section: Nothing in this section shall preclude an employer, union or association from reducing the level of benefits under any group insurance policy or plan.

Approved April 3, 1980

CHAPTER 460—S.F.No. 1541

An act relating to transportation; abolishing the functions, powers and duties of the department of transportation relating to the inspection, grading, sampling and analysis of hay and straw; clarifying laws relating to the regulation of railroads and removing obsolete and duplicative language; prescribing certain powers of the commissioner of transportation and the public service commission relating to rates and charges; requiring track scales, and regulating the weighing of railroad cars and freight; providing for railroad grade crossing safety devices and other safety devices; prescribing penalties; amending Minnesota Statutes 1978, Sections 218.011, Subdivision 2; 218.021; 218.031, Subdivision 1; 218.041; 219.01; 219.08; 219.10; 219.14; 219.17; 219.19; 219.23; 219.28; 219.383, Subdivision 4; 219.39; 219.40; 219.403; 219.47; 219.50; 219.52; 219.54; 219.64; 219.70; 219.741; 219.85; 219.92; 219.97, Subdivision 7; Chapters 25, by adding sections; 219, by adding sections; and 239, by adding a section; repealing Minnesota Statutes 1978, Sections 219.02; 219.03; 219.04; 219.05; 219.07; 219.11; 219.12; 219.25; 219.43; 219.58; 219.59; 219.60; 219.61; 219.62; 219.63; 219.65; 219.66; 219.67; 219.84; 219.86; 219.87; 219.89; 219.90; 219.91; 219.94; 219.95; 219.96; 219.97, Subdivisions 1, 2, 3, 8, 9, 11, 14, 15 and 16; 222.38; 222.39; 222.40; 222.41; 222.42; 222.43; 222.44; 222.45; 229.01; 229.02; 229.03; 229.04; 229.05; 229.06; 229.07; 229.08; 229.10; 229.11; 229.12; 229.13; 229.14; 229.15; 229.16; 229.17; 229.18; 229.19; 229.20; and 452.14.

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

Section 1. Minnesota Statutes 1978, Chapter 25, is amended by adding a section to read:

[25.46] HAY AND STRAW WEIGHING, SAMPLING, ANALYSIS. The commissioner of agriculture shall exercise general supervision over the inspection, grading, sampling and analysis of hay and straw in the state. The functions, powers and duties of the department of transportation relating to the inspection, grading, sampling and analysis of hay and straw are abolished.

Sec. 2. Minnesota Statutes 1978, Chapter 25, is amended by adding a section to read:

[25.47] HAY AND STRAW STANDARDS. Subdivision 1. The commissioner of agriculture shall have jurisdiction over hay and straw standards established in Minnesota and shall regulate the inspection, grading, weighing, sampling and analysis of hay and straw within the state.

Subd. 2. The commissioner of agriculture shall, on or before June 15 of each year, establish the grades of hay and straw subject to state inspection which shall be known as the "Minnesota Grades" and hay and straw received at a public warehouse shall be graded accordingly. The grades shall not be changed before June 15 of the next succeeding year. The commissioner of agriculture shall also adopt rules in accordance with the administrative procedure act as it deems necessary to implement this section and section 1.

Sec. 3. Minnesota Statutes 1978, Section 218.011, Subdivision 2, is amended to read:

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~~ rail transportation as ~~aforsaid~~ common carriers for hire.

Sec. 4. Minnesota Statutes 1978, Section 218.021, is amended to read:

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,~~ service without approval of the 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.

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(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 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 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 waste material for reprocessing, 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, 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

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of passenger and freight transportation and message service between railroad, motor bus and telegraph companies; nor prohibit furnishing free transportation to the 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. 5. Minnesota Statutes 1978, Section 218.031, Subdivision 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 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 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 commission, except as the same may be stayed, pending appeal.

(4) To maintain as may be directed by the 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

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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 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.

(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 required by the commission commissioner, and on such terms as may be agreed upon, or, on failure of agreement, as may be prescribed by the commission 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) (10) 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 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 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 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 commissioner may require. The 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~~ he may deem necessary.

~~(13)~~ (11) During pendency of any litigation, when rates prescribed by the 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 commission on his request.

Sec. 6. Minnesota Statutes 1978, Section 218.041, is amended to read:

218.041 **DUTIES OF PUBLIC SERVICE COMMISSION AND COMMISSIONER.** Subdivision 1. With respect to all common carriers including express companies and ~~sleeping car companies~~, the 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. 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 public service commission shall, upon petition 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.

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

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(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.

(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.~~

(5) ~~Prescribe rates for feeding cattle applicable to outmovement from terminal markets.~~ (4) The 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.

(6) (5) 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 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 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 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.

(7) (6) 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 commissioner.

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(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 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:

(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 that the public will not be deprived of reasonably adequate service thereby.~~

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

(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 ears and of freight.~~

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

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

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~~(9)~~ (4) 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.

~~(40)~~ (5) 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).

Upon receipt of a petition for action pursuant to this subdivision the commissioner shall give notice to all persons known to him to have an interest in the matter and publish notice of the petition in the state register. The commissioner may grant the petition 30 days after notice has been fully made. If the commissioner receives a written objection to the petition from any person within 20 days after the notice of filing has been fully made, the exemption shall be granted or denied only after a contested case hearing has been held on the matter. The commissioner may elect to hold a contested case hearing if no objections to the petition or application are received. If a timely objection is not received and the commissioner declines to act without hearing, the petitioner may request within 30 days of receiving a notice of denial, and shall be granted, a contested case hearing on the application.

Subd. 4. The commissioner shall:

~~(1)~~ (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)~~ (1) 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)~~ (2) 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)~~ (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)~~ (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;

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(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) (3) ~~Institute and prosecute all actions and proceedings in the appropriate courts for the enforcement of the provisions of this chapter, the orders, rules and directives of the commissioner and the commission issued thereunder and any violations thereof; and~~

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

Subd. 5. The commissioner may:

(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; and~~

(5) Prescribe rules, duly promulgated in accordance with chapter 15, relating to rates, care in handling and other livestock transportation matters.

Subd. 6. ~~The commissioner~~ public service commission 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 Upon application by a carrier stating that it desires to establish a rate for a temporary period for the protection of the interest 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.

(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 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 the common carrier in writing, when the application appears to be noncontroversial.

(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 Authorize, on

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less than ten days' public notice, schedules containing classifications, rates, fares and charges for the transportation of freight and passengers.

(4) Retain general rate-making authority in intrastate transportation of livestock.

Subd. 7. The public service commission, or the commissioner, as appropriate, may take action to promulgate rules in areas including, but not limited to the following: rates, routes, depots, schedules, quality of service, and safety requirements relating to intrastate rail passenger service.

Sec. 7. Minnesota Statutes 1978, Section 219.01, is amended to read:

219.01 CONSTRUCTION OF RAILROADS. All steam railroads shall be of the standard gauge of four feet eight and one-half inches and substantially and safely constructed. The United States department of transportation and federal railroad administration track safety standards shall apply to all railroad trackage and shall be standard for determination of unsafe trackage within the state.

Sec. 8. Minnesota Statutes 1978, Chapter 219, is amended by adding a section to read:

[219.071] MAINTENANCE OF GRADE CROSSING SURFACES. Subdivision 1. It is the primary responsibility of the owner or lessee of railroad track in Minnesota to maintain grade crossing surfaces over public highways in a safe and passable condition for vehicular traffic in a manner consistent with appropriate federal track safety standards. The surfaces shall extend the full width of the public highway within the railroad track structure.

Subd. 2. If a grade crossing surface, as defined in section 219.16, is in need of repair or maintenance, the cost for the repair or maintenance may be paid jointly by the owner or lessee of the track, the road authority having jurisdiction over the public highway involved and funds that may be available to the department for grade crossing surfaces from the following sources:

(1) Monies appropriated to the department in the future for the purposes of this section.

(2) Available federal funds allocated to this state for the grade crossing program established by this section.

(3) Monies acquired by the department from any gift, grant or contributions from any source for purposes of this section.

Subd. 3. If the owner or lessee of the railroad track and the road authority having jurisdiction over the public highway involved agree upon the allocation of the cost of repair or maintenance of the grade crossing surface, a copy of the agreement shall be filed with the commissioner. If the parties to the negotiations contemplate the use in whole or in part of the funds described in subdivision 2, either party shall notify the commissioner before the conclusion of negotiations and the department may participate in the negotiations and may be a party to the agreement and participate in the costs incurred subsequent to agreement.

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Subd. 4. If the owner or lessee of the railroad track and the road authority having jurisdiction over the public highway at the grade crossing cannot reach an agreement under subdivision 3 regarding repair or maintenance of a grade crossing surface, either party may invoke the jurisdiction of the department by filing with the commissioner a statement setting forth the status of negotiations and requesting the commissioner to make a final determination of the dispute. The commissioner, after written notice to the parties involved in the negotiations and after providing an opportunity for the parties to participate in a conference, may order the repair or maintenance of the grade crossing surface within a reasonable time as is needed to comply with standards set forth in subdivision 1 above. The order of the commissioner, in addition to enforcing the responsibility of the owner or lessee of the railroad track in question, may provide for participation in the costs of the project by the road authority or the funds available to the department in subdivision 2 above or other formulas as may be practical and reasonable under the circumstances. A party failing to comply with an order of the commissioner shall be subject to a penalty of \$50 for each day of noncompliance and each day shall constitute a separate offense, to be recovered for the state in a civil action instituted by the department.

Subd. 5. A party subject to an order issued pursuant to subdivision 4 may appeal the order of the commissioner to the district court of the county in which the grade crossing is located; and, in case of appeal, the same proceedings shall be conducted as are now provided by law for an appeal from orders of the commissioner. All orders of the commissioner shall be enforced by the attorney general.

Sec. 9. Minnesota Statutes 1978, Chapter 219, is amended by adding a section to read:

[219.072] ESTABLISHMENT OF NEW GRADE CROSSINGS. The establishment of all new grade crossings shall be approved by the commissioner. When it is desired, either by the public officials having the necessary authority or by the railroad company, to establish a new grade crossing and an agreement cannot be reached between the public officials and the railroad company, either as to need, location, or type of warning devices required, either party may file a petition with the commissioner setting forth the facts and submitting the matter for determination. The commissioner, after notice as he shall deem reasonable, shall conduct a hearing and issue his order determining the matters so submitted.

Sec. 10. Minnesota Statutes 1978, Section 219.08, is amended to read:

219.08 CROSSINGS; CHANGE OF GRADE. Every railroad company in this state shall keep well planked and in a safe and passable condition every crossing over any public highway, and When any such railroad company shall have changed or raised changes or raises the grade of its tracks at any such crossing it shall also grade the approaches on each side so as to make the approach and crossing of such the tracks safe and easy for teams with loads and other vehicles.

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Sec. 11. Minnesota Statutes 1978, Section 219.10, is amended to read:

219.10 PENALTY FOR VIOLATION. Subdivision 1. NONCOMPLIANCE, PENALTY. Every railroad company who shall refuse or neglect to comply with the provisions of ~~section~~ sections 219.08 and 219.09 for the space of 30 days after having been notified to comply in writing by any ~~town or county board so to do~~ road authority shall be guilty of a violation of sections 219.08 ~~to 219.12~~ and 219.09 and shall be subject to a fine of \$50 for each day thereafter that such crossing is left in such dangerous and unsafe condition and each such day shall constitute a separate offense.

Subd. 2. DUTY OF COUNTY ATTORNEY. The county attorney of any county may institute court proceedings for the collection of the fines, together with all costs and disbursements on the part of the road authority making the complaint, together with \$100 attorney's fees for each prosecution.

Sec. 12. Minnesota Statutes 1978, Section 219.14, is amended to read:

219.14 RAILROAD CROSSINGS PROTECTED. Subdivision 1. **INVESTIGATION.** The 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~~ he may find reasonable and proper, including requiring the company to separate the grades.

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

Sec. 13. Minnesota Statutes 1978, Section 219.17, is amended to read:

219.17 UNIFORM WARNING SIGNS. The 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 when deemed necessary, 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. 14. Minnesota Statutes 1978, Section 219.19, is amended to read:

219.19 ADDITIONAL WARNING SIGNS; ROAD AUTHORITY 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 crossing signs, ~~such~~ such approach warning signs shall be installed. The commissioner may designate any ~~such~~ such grade crossings requiring ~~such~~ such additional signs on either or both sides of ~~said~~ the crossing. When any ~~such~~ such crossing is designated by the commissioner as requiring ~~such~~ such additional protection,

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he shall notify the ~~railway company operating the railroad thereat and the public authorities~~ road authority having the care of the highway. ~~Such railway company~~ The road authority shall, within 30 days after such notification, furnish such ~~and maintain~~ uniform signs to such public authorities, and such public authorities shall erect these signs in conspicuous ~~in the appropriate~~ places on the highway on either or both sides of such ~~the grade crossings~~ as the case may be; not less than 200 feet from the crossing and thereafter maintain the same.

Sec. 15. Minnesota Statutes 1978, Section 219.23, is amended to read:

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

Sec. 16. Minnesota Statutes 1978, Section 219.28, is amended to read:

219.28 OVERHEAD OR UNDERGROUND CROSSINGS; SEPARATE GRADES. ~~The commissioner may require any railroad company to construct overhead and maintain underground crossings and separate grades when, in his opinion, the interests and safety of the public require, and no overhead or underground crossings, nor separation of grade, shall be made except upon petition therefor, and with the approval of the commissioner shall approve the establishment of all overhead or underground crossings or separation of grades.~~

Sec. 17. Minnesota Statutes 1978, Section 219.383, Subdivision 4, is amended to read:

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 or a switching movement which continuously blocks a crossing 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.

Sec. 18. Minnesota Statutes 1978, Section 219.39, is amended to read:

219.39 DANGEROUS CROSSINGS; COMPLAINTS; HEARINGS. ~~On his own motion or~~ Upon written complaint authorized by the governing body of any city or county, or by the board of supervisors of any town, or authorized officers of a subject railroad, alleging that any railroad crossing with any street, road or highway in the city, town or county is dangerous to life and property, and giving the reasons therefor, the commissioner shall investigate the matters contained in the complaint, and, where necessary, convene a hearing, at a time and place to be fixed by the commissioner, after such notice to the ~~complainant~~ road authority and the railroad as the commissioner may deem reasonable.

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Sec. 19. Minnesota Statutes 1978, Section 219.40, is amended to read:

219.40 DETERMINATION; ORDER; FLAGMEN OR SAFETY DEVICE. If a complaint is made under section 219.39, the commissioner shall determine whether the crossing is ~~dangerous~~ hazardous and may with or without a hearing require the railroad company ~~complained of~~ to provide flagmen at ~~such the~~ crossing, or to adopt ~~such~~ safety devices as the commissioner may deem necessary for the proper protection of the crossing, or may require the removal of any structure, embankment or other obstruction to the view, or 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 transportation department interested, on ~~such~~ terms and conditions as 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 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 commissioner.~~ If the complainant, road authority, or the railroad files exceptions to an order of the commissioner made under this section without a hearing, the commissioner shall convene a hearing on the original complaint. If the 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 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, he may in the same order direct that the costs thereof be divided between the railroad company and the public authority involved on ~~such the~~ basis as the parties may agree, or, if they fail to agree, then the costs thereof shall be as determined by the commissioner or his designee on the basis of benefit to the users of each; or the 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 transportation. In all other cases the public's share of the costs shall be paid from available funds or from the trunk highway fund, if ordered by the 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 the~~ 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. Any crossing safety devices or improvements installed or maintained under provisions of this chapter as approved by the commissioner, whether by order or otherwise, shall be deemed adequate and appropriate protection for the crossing.

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Sec. 20. Minnesota Statutes 1978, Section 219.403, is amended to read:

219.403 NOT TO AFFECT EXISTING LAWS RELATING TO MUNICIPALITIES. Nothing in sections 161.20, 219.40, 219.403 or section 8 of this act shall be construed to change any existing law relating to the rights and liabilities of any city, town, or county in connection with the construction or maintenance of any railroad crossing, grade separation, or signal system, or to impair the terms or conditions of any existing arrangement or agreement, or renewals thereof, between any railroad company and any municipality with reference to the maintenance of any railroad crossing, grade separation, or signal system.

Sec. 21. Minnesota Statutes 1978, Section 219.47, is amended to read:

219.47 EXCEPTIONS. Subdivision 1. PERMANENT. The 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 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 employees of ~~such~~ the common carrier or any person or corporation.

Subd. 2. TEMPORARY. The commissioner may upon application made, grant temporary clearance variances with appropriate safeguards without hearing, for statutory encroachments which result from emergency or temporary construction situations.

Sec. 22. Minnesota Statutes 1978, Section 219.50, is amended to read:

219.50 OBSTRUCTING SPACE BETWEEN TRACKS. It shall be unlawful for any such common carrier or any person or corporation to which sections 219.44 to 219.52 apply to permit the space between or beside such of its tracks as are ordinarily used by yardmen and other employees in the discharge of their duties, and within eight feet six inches of the center line of any such track, to become or remain obstructed by any foreign obstacle that will interfere with the work of the employees or subject the employees to unnecessary hazard. Such ~~The~~ space between or beside the tracks, as aforesaid, and between the rails of the tracks must be kept in ~~such~~ a condition as to permit the employees to pass over or between the tracks or to use the same day or night and under all weather conditions without unnecessary hazard. ~~Wherever any railroad company has already begun work on depressing a portion of its tracks, within the corporate limits of any municipality, whether under contract with such municipality or otherwise, sections 219.44 to 219.52 shall not apply to any depression of the tracks of such company lying wholly within the corporate limits of such municipality. None of the provisions of sections 219.44 to 219.52 shall apply to any part of any work or enterprise heretofore begun or under construction, whether under contract between any railroad company and any municipality or otherwise.~~

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Sec. 23. Minnesota Statutes 1978, Section 219.52, is amended to read:

219.52 **INSPECTORS OF DEPARTMENT 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 commissioner shall provide for warning signs to be placed thereon of ~~such~~ a design and type as the commissioner shall deem proper unless the commissioner shall determine ~~such~~ a sign is unnecessary. It shall be the duty of the railroad inspectors of the department of labor and industry to report to the 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. 24. Minnesota Statutes 1978, 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 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~~ The 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~~ vehicles and equipment 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~~ the failure shall continue.

Sec. 25. Minnesota Statutes 1978, Section 219.64, is amended to read:

219.64 **ASSUMPTION OF RISK; CONTRIBUTORY NEGLIGENCE.** Any employee of any common carrier who may be killed or injured due to improperly adjusted and filled frogs, switches, and guardrails or by any locomotive, tender, car, similar vehicle, or train in use contrary to ~~the provisions of sections 219.58 to 219.66~~ federal or state railroad safety laws and standards shall not be deemed thereby to have assumed the risk thereby occasioned, although continuing in the employment of ~~such~~ the carrier after the unlawful use of ~~such~~ the locomotive, tender, car, similar vehicle, or train has been brought to his knowledge, nor shall ~~such~~ the employee be held to have contributed to his injury in any case where the carrier shall have violated any provision of sections 219.58 to 219.66, federal or state railroad safety laws and standards when ~~such~~ the violation contributed to the death or injury of ~~such~~ the employee.

Sec. 26. Minnesota Statutes 1978, Section 219.70, is amended to read:

219.70 **APPLICATION TO ABANDON; POWER OF COMMISSIONER.** 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 commissioner in writing. Before passing upon ~~such~~ the application the commissioner shall order a public hearing in accordance with chapter 15.

Sec. 27. Minnesota Statutes 1978, 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 commissioner in writing. Before passing upon ~~such the~~ application the commissioner shall ~~follow the procedure set out in section 218.041, subdivision 3~~ provide the opportunity for a hearing after public notice and, if he so determines, shall fix a time and place for hearing, and a notice of the hearing shall be served upon all interested persons so far as known to the commissioner.

Sec. 28. Minnesota Statutes 1978, 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 commissioner after public notice and hearing opportunity for hearing is afforded. The commissioner may on 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. ~~Hearings shall be conducted in the same manner as other hearings before 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 commissioner~~ an opportunity for hearing.

Sec. 29. Minnesota Statutes 1978, 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 commissioner that the same is finished and in a safe condition for operation, being in full compliance with federal track safety standards, and shall file with the commissioner a map and profile thereof with table of grades, curvatures, and mileage, and a statement of other characteristics of ~~such the~~ road and an itemized statement showing the actual cost thereof; all of the foregoing to be in ~~such a~~ form as the commissioner shall prescribe so as to be in compliance with the federal track safety standards 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 commissioner shall inspect the same, or cause it to be inspected by the state federal track safety inspectors, 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 commissioner may, on application, authorize the operation of ~~such the~~ portion thereof pending the completion of the entire road under such terms and conditions as the commissioner may impose in the interests of the public.

Sec. 30. Minnesota Statutes 1978, Section 219.97, Subdivision 7, is amended to read:

Subd. 7. Any company failing to comply with any of the provisions of ~~sections 219.84 and~~ section 219.85 shall forfeit to the state for each such violation not less than \$500 nor more than \$1,000; and each period of 30 days that any such failure shall continue shall be deemed to constitute a separate offense.

Sec. 31. Minnesota Statutes 1978, Chapter 239, is amended by adding a section to read:

[239.081] INSPECTING TRACK SCALES. The department shall supervise and inspect all track scales, and may direct any carrier to transport, move, and switch to any track scale free of charge any car used in the inspection and testing of scales. The department shall require the installation and maintenance of track scales at terminals, warehouses, and at other points in the state where scales are deemed necessary. The department shall prescribe reasonable regulations for the weighing of railroad cars and of freight. Rules of the department promulgated under chapter 218 and in effect on January 1, 1976, which pertain to installation or inspection of track scales or the weighing of railroad cars and freight shall continue in effect until amended or repealed by the department.

Sec. 32. **REPEALER.** Minnesota Statutes 1978, Sections 219.02; 219.03; 219.04; 219.05; 219.07; 219.11; 219.12; 219.25; 219.43; 219.58; 219.59; 219.60; 219.61; 219.62; 219.63; 219.65; 219.66; 219.67; 219.84; 219.86; 219.87; 219.89; 219.90; 219.91; 219.94; 219.95; 219.96; 219.97, Subdivisions 1, 2, 3, 8, 9, 11, 14, 15 and 16; 222.38; 222.39; 222.40; 222.41; 222.42; 222.43; 222.44; 222.45; 229.01; 229.02; 229.03; 229.04; 229.05; 229.06; 229.07; 229.08; 229.10; 229.11; 229.12; 229.13; 229.14; 229.15; 229.16; 229.17; 229.18; 229.19; 229.20; and 452.14, are repealed.

Sec. 33. **EFFECTIVE DATE.** This act is effective the day following its final enactment.

Approved April 3, 1980

CHAPTER 461—S.F.No. 1611

An act relating to local government; establishing the Moorhead-Clay County area redevelopment authority; terminating the existence of the Moorhead local redevelopment agency and the Clay County local redevelopment agency; granting certain powers to the city of Moorhead and the county of Clay.

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

Section 1. **ESTABLISHMENT OF AUTHORITY.** The Moorhead-Clay County area redevelopment agency, heretofore established and operating as a joint board under Minnesota Statutes, Chapter 472, is declared to be a public

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