STATE OF MINNESOTA

Journal of the Senate

EIGHTY-SECOND LEGISLATURE

NINETY-FIRST DAY

St. Paul, Minnesota, Tuesday, March 26, 2002

The Senate met at 9:00 a.m. and was called to order by the President.

CALL OF THE SENATE

Senator Frederickson imposed a call of the Senate. The Sergeant at Arms was instructed to bring in the absent members.

Prayer was offered by the Chaplain, Rev. John Estrem.

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

Anderson	Higgins	Larson	Ourada	Scheid
Bachmann	Hottinger	Lesewski	Pappas	Schwab
Belanger	Johnson, Dave	Lessard	Pariseau	Solon, Y.P.
Berg	Johnson, Dean	Limmer	Pogemiller	Stevens
Berglin	Johnson, Debbie	Lourey	Price	Stumpf
Betzold	Johnson, Doug	Marty	Reiter	Terwilliger
Chaudhary	Kelley, S.P.	Metzen	Rest	Tomassoni
Cohen	Kierlin	Moe, R.D.	Ring	Vickerman
Day	Kinkel	Moua	Robertson	Wiener
Dille	Kiscaden	Murphy	Robling	Wiger
Fischbach	Kleis	Neuville	Sabo	
Foley	Knutson	Oliver	Sams	
Fowler	Krentz	Olson	Samuelson	
Frederickson	Langseth	Orfield	Scheevel	

The President declared a quorum present.

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

EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communication was received.

March 25, 2002

The Honorable Don Samuelson
President of the Senate

Dear President Samuelson:

It is my honor to inform you that I have received, approved, signed and deposited in the Office of the Secretary of State, S.F. Nos. 3045, 3109, 2611, 1030, 222, 2578, 2463, 3167, 1226, 3100, 3124, 3126, 3117 and 2419.

Sincerely,
Jesse Ventura, Governor

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, herewith returned: S.F. No. 3145.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 25, 2002

Mr. President:

I have the honor to announce that the House has acceded to the request of the Senate for the appointment of a Conference Committee, consisting of 3 members of the House, on the amendments adopted by the House to the following Senate File:

S.F. No. 2486: A bill for an act relating to health; modifying requirements for certain major spending commitments; amending Minnesota Statutes 2000, section 62J.17, subdivision 8.

There has been appointed as such committee on the part of the House:

Goodno, Bradley and Huntley.

Senate File No. 2486 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 25, 2002

Mr. President:

I have the honor to announce that the House has acceded to the request of the Senate for the appointment of a Conference Committee, consisting of 3 members of the House, on the amendments adopted by the House to the following Senate File:

S.F. No. 2909: A bill for an act relating to health; permitting a health maintenance organization rural demonstration project; modifying enrollee cost-sharing provisions for health maintenance organizations; amending Minnesota Statutes 2000, sections 62D.02, subdivision 8; 62D.30, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 62D.

There has been appointed as such committee on the part of the House:

Penas, Bradley and Skoe.

Senate File No. 2909 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 25, 2002

Mr. President:

I have the honor to announce that the House has acceded to the request of the Senate for the appointment of a Conference Committee, consisting of 3 members of the House, on the amendments adopted by the House to the following Senate File:

S.F. No. 3288: A bill for an act relating to public employment labor relations; extending the expiration of an interest arbitration provision governing firefighters; amending Minnesota Statutes 2000, section 179A.16, subdivision 7a.

There has been appointed as such committee on the part of the House:

Rhodes, Hackbarth and Pelowski.

Senate File No. 3288 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 25, 2002

Mr. President:

I have the honor to announce that the House has acceded to the request of the Senate for the appointment of a Conference Committee, consisting of 3 members of the House, on the amendments adopted by the House to the following Senate File:

S.F. No. 3293: A bill for an act relating to highways; transferring three state highways and vacating one state highway; repealing Minnesota Statutes 2000, section 161.115, subdivisions 122, 197, 204, 233.

There has been appointed as such committee on the part of the House:

Clark, J.; Abeler and Marko.

Senate File No. 3293 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 25, 2002

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 3084: A bill for an act relating to auditing; modifying certain state and local auditing procedures and reporting practices; amending Minnesota Statutes 2000, sections 115A.929; 609.5315, subdivision 6; proposing coding for new law in Minnesota Statutes, chapter 366; repealing Minnesota Statutes 2000, section 6.77.

Senate File No. 3084 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 25, 2002

CONCURRENCE AND REPASSAGE

Senator Rest moved that the Senate concur in the amendments by the House to S.F. No. 3084 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 3084: A bill for an act relating to auditing; modifying certain state and local auditing procedures and reporting practices; amending Minnesota Statutes 2000, sections 115A.929; 609.5315, subdivision 6; repealing Minnesota Statutes 2000, section 6.77.

Was read the third time, as amended by the House, and placed on its repassage.

The question was taken on the repassage of the bill, as amended.

The roll was called, and there were yeas 60 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Betzold	Fischbach	Hottinger	Kierlin
Bachmann	Chaudhary	Foley	Johnson, Dave	Kinkel
Belanger	Cohen	Fowler	Johnson, Dean	Kiscaden
Berg	Day	Frederickson	Johnson, Debbie	Kleis
Berglin	Dille	Higgins	Kelley, S.P.	Knutson

Krentz	Moe, R.D.	Pappas	Robertson	Schwab
Langseth	Moua	Pariseau	Robling	Solon, Y.P.
Larson	Murphy	Pogemiller	Sabo	Stumpf
Lesewski	Neuville	Price	Sams	Tomassoni
Limmer	Olson	Reiter	Samuelson	Vickerman
Marty	Orfield	Rest	Scheevel	Wiener
Metzen	Ourada	Ring	Scheid	Wiger

So the bill, as amended, was repassed and its title was agreed to.

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce the passage by the House of the following House File, herewith transmitted: H.F. No. 2214.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted March 25, 2002

FIRST READING OF HOUSE BILLS

The following bill was read the first time.

H.F. No. 2214: A bill for an act relating to a baseball park; providing for financing of a major league baseball park; providing a site selection process; authorizing state revenue bonds; establishing a baseball park gift fund; authorizing a state loan to the site city; requiring local government body approval; establishing a sports facilities fund; imposing certain obligations on the major league baseball team; requiring a use agreement and a guaranty from major league baseball; providing a property tax exemption for the baseball park; exempting sales of construction materials for the park from the sales tax; requiring payment of the prevailing wage rate to ballpark construction workers; requiring the state executive council to select a city for the site; requiring the legislative commission on planning and fiscal policy to make a recommendation to the council; providing an opportunity for community ownership if the baseball team is sold; requiring a donation from private sources as a precondition to issuing bonds or loaning state money; authorizing certain temporary city taxes and an admission tax if approved by referendum; authorizing parking surcharges; authorizing issuance of an additional liquor license; authorizing a condominium; requiring evaluation of an olympic bid; appropriating money; amending Minnesota Statutes 2000, sections 272.02, by adding a subdivision; 297A.71, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 16A.

Senator Moe, R.D. moved that H.F. No. 2214 be laid on the table. The motion prevailed.

REPORTS OF COMMITTEES

Senator Moe, R.D. moved that the Committee Reports at the Desk be now adopted. The motion prevailed.

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

H.F. No. 2473 for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
2473	2807				

Pursuant to Rule 45, the Committee on Rules and Administration recommends that H.F. No. 2473 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 2473 and insert the language after the enacting clause of S.F. No. 2807, the first engrossment; further, delete the title of H.F. No. 2473 and insert the title of S.F. No. 2807, the first engrossment.

And when so amended H.F. No. 2473 will be identical to S.F. No. 2807, and further recommends that H.F. No. 2473 be given its second reading and substituted for S.F. No. 2807, and that the Senate File be indefinitely postponed.

Pursuant to Rule 45, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

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

H.F. No. 3359 for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
3359	3005				

Pursuant to Rule 45, the Committee on Rules and Administration recommends that H.F. No. 3359 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 3359 and insert the language after the enacting clause of S.F. No. 3005; further, delete the title of H.F. No. 3359 and insert the title of S.F. No. 3005.

And when so amended H.F. No. 3359 will be identical to S.F. No. 3005, and further recommends that H.F. No. 3359 be given its second reading and substituted for S.F. No. 3005, and that the Senate File be indefinitely postponed.

Pursuant to Rule 45, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

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

H.F. No. 2972 for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
2972	2740				

Pursuant to Rule 45, the Committee on Rules and Administration recommends that H.F. No. 2972 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 2972 and insert the language after the enacting clause of S.F. No. 2740, the first engrossment; further, delete the title of H.F. No. 2972 and insert the title of S.F. No. 2740, the first engrossment.

And when so amended H.F. No. 2972 will be identical to S.F. No. 2740, and further recommends that H.F. No. 2972 be given its second reading and substituted for S.F. No. 2740, and that the Senate File be indefinitely postponed.

Pursuant to Rule 45, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

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

H.F. No. 3031 for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
3031	2669				

Pursuant to Rule 45, the Committee on Rules and Administration recommends that H.F. No. 3031 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 3031 and insert the language after the enacting clause of S.F. No. 2669, the third engrossment; further, delete the title of H.F. No. 3031 and insert the title of S.F. No. 2669, the third engrossment.

And when so amended H.F. No. 3031 will be identical to S.F. No. 2669, and further recommends that H.F. No. 3031 be given its second reading and substituted for S.F. No. 2669, and that the Senate File be indefinitely postponed.

Pursuant to Rule 45, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

SECOND READING OF HOUSE BILLS

H.F. Nos. 2473, 3359, 2972 and 3031 were read the second time.

MOTIONS AND RESOLUTIONS

Senator Lourey introduced--

Senate Resolution No. 200: A Senate resolution congratulating Zachary David Bennett of Sandstone, Minnesota for receiving the Eagle Award.

Referred to the Committee on Rules and Administration.

Senator Langseth introduced--

Senate Resolution No. 201: A Senate resolution commending the Minnesota Alliance with Youth.

Referred to the Committee on Rules and Administration.

Senators Moe, R.D. and Day introduced--

Senate Concurrent Resolution No. 11: A Senate concurrent resolution relating to adjournment for more than three days.

BE IT RESOLVED, by the Senate of the State of Minnesota, the House of Representatives concurring:

1. Upon their adjournments on March 27, 2002, the Senate and House of Representatives may each set its next day of meeting for April 2, 2002.

2. Each house consents to adjournment of the other house for more than three days.

Senator Moe, R.D. moved the adoption of the foregoing resolution. The motion prevailed. So the resolution was adopted.

SPECIAL ORDERS

Pursuant to Rule 26, Senator Moe, R.D., Chair of the Committee on Rules and Administration, designated the following bills a Special Orders Calendar to be heard immediately:

S.F. Nos. 1811, 2150, 709, 3098, 3030, 2991, 2950, H.F. No. 2706, S.F. No. 2594, H.F. No. 2780 and S.F. No. 3384.

SPECIAL ORDER

S.F. No. 1811: A bill for an act relating to drainage; allowing transfer of a public drainage system to a water management authority; defining water management authority; amending Minnesota Statutes 2000, section 103E.005, subdivision 16, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 103E.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 61 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Frederickson	Langseth	Pappas	Scheid
Bachmann	Higgins	Larson	Pariseau	Schwab
Belanger	Hottinger	Lesewski	Pogemiller	Solon, Y.P.
Berg	Johnson, Dave	Lessard	Price	Stevens
Berglin	Johnson, Dean	Limmer	Reiter	Stumpf
Betzold	Johnson, Debbie	Marty	Rest	Tomassoni
Chaudhary	Kelley, S.P.	Metzen	Ring	Vickerman
Cohen	Kierlin	Moua	Robertson	Wiener
Day	Kinkel	Neuville	Robling	Wiger
Dille	Kiscaden	Oliver	Sabo	
Fischbach	Kleis	Olson	Sams	
Foley	Knutson	Orfield	Samuelson	
Fowler	Krentz	Ourada	Scheevel	

So the bill passed and its title was agreed to.

SPECIAL ORDER

S.F. No. 2150: A bill for an act relating to professions; modifying electrician licensing; requiring rulemaking; amending Minnesota Statutes 2000, sections 326.01, subdivisions 5, 6g, by adding subdivisions; 326.241, subdivision 1; 326.242, subdivisions 1, 2, 3, 5, 6, 6a, 6b, 6c, 7, 8, 10, 12, by adding a subdivision; 326.2421, subdivisions 2, 9; 326.244, subdivisions 1a, 2, 5, 6; Minnesota Statutes 2001 Supplement, section 326.243; repealing Minnesota Statutes 2000, sections 326.01, subdivision 6d; 326.2421, subdivisions 3, 4, 6, 8; Minnesota Rules, part 3800.3500, subpart 12.

Senator Stevens moved to amend S.F. No. 2150 as follows:

Page 3, line 11, after "demarcation" insert "and are not process control circuits or systems"

Page 3, after line 21, insert:

"Sec. 7. Minnesota Statutes 2000, section 326.01, is amended by adding a subdivision to read:

Subd. 6m. [PROCESS CONTROL CIRCUITS OR SYSTEMS.] "Process control circuits or systems" are circuits or systems, regardless of electrical classification, that are integrated with a manufacturing, mining, energy, finishing, conveyance of equipment or product, material handling or packaging, process that makes or assembles, or similar process."

Page 7, line 33, delete "five" and insert "three"

Page 13, line 10, after "(1)" insert "in other than residential dwellings,"

Page 13, line 12, after the second comma, insert "and"

Page 13, line 13, delete "and process control,"

Page 13, line 14, delete everything after "these" and insert "systems through communication, alarm, and security systems are exempted from this"

Page 13, line 25, delete "or systems"

Page 16, line 17, delete "process control,"

Page 16, line 30, after the semicolon, insert "and"

Page 16, delete lines 31 and 32

Page 16, line 33, delete "(5)" and insert "(4)"

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Hottinger moved to amend S.F. No. 2150 as follows:

Page 13, line 11, delete "for the"

Page 13, delete line 12

Page 13, line 13, delete "refrigeration, and process control"

Page 16, line 16, delete "for the purpose of environmental"

Page 16, delete line 17

The motion prevailed. So the amendment was adopted.

Senator Hottinger then moved to amend S.F. No. 2150 as follows:

Page 13, after line 27, insert:

"(d) Heating, ventilating, air conditioning, and refrigeration contractors and their employees are not required to hold or obtain a license under sections 326.241 to 326.248 when performing heating, ventilating, air conditioning, or refrigeration work as described in section 326.245; or"

Page 13, line 28, delete "(d)" and insert "(e)"

Page 14, line 24, delete "(e)" and insert "(f)"

Page 16, line 6, delete "following"

Page 16, delete line 7 and insert "circuits or systems described in paragraph (b), except:

(1) minor work performed by a contractor~~,~~;

(2) work performed by a heating, ventilating, or air conditioning contractor as described in section 326.245; and

(3) work performed by cable company or telephone company employees,"

Page 16, line 8, before "must" insert block left coding

Page 16, line 13, delete the colon and insert ".

(b) The inspection requirements in paragraph (a) apply to:"

Page 20, after line 25, insert:

"Sec. 28. Minnesota Statutes 2000, section 326.245, is amended to read:

326.245 [MANUFACTURING, INSTALLATION, ALTERATION, OR REPAIR OF ELECTRICAL APPARATUS; EXEMPT.]

Subdivision 1. [MANUFACTURERS.] Electrical components, apparatus, or appliances being manufactured within the limits of property which is owned or leased by a manufacturer and such manufacturer's production employees ~~shall~~ are not ~~be~~ covered by sections 326.241 to 326.248. ~~Installation, alteration, or repair of electrical appliance units, except (a) electrical wiring to the unit, or (b) original wiring in or on the unit installed outside the limits of property which is owned or leased by a manufacturer shall not be covered by this chapter. For purposes of this section, "electrical appliance units" means all electrical and natural gas appliances that use electricity including, but not limited to, furnaces, water heaters, stoves, clothes washers, dryers, air conditioners, dishwashers, and humidifiers.~~

Subd. 2. [ELECTRICAL APPLIANCE UNITS.] Installation, alteration, or repair of electrical appliance units are not covered by sections 326.241 to 326.248. For the purposes of this section, "electrical appliance units" means all electrical and fossil fuel appliances that use electricity including, but not limited to, furnaces, water heaters, stoves, clothes washers, dryers, and dishwashers. The installation of electrical wiring to an electrical appliance unit is covered by sections 326.241 to 326.248.

Subd. 3. [OTHER UNITS.] Planning, laying out, and installation of heating, ventilating, air conditioning, or refrigeration units are not covered by sections 326.241 to 326.248. For purposes of this section, heating, ventilating, air conditioning, or refrigeration units include, but are not limited to, air conditioning units, air conditioning evaporators, air conditioning condensers, air conditioning and refrigeration chillers, boilers, furnaces, air handling units, rooftop units, humidifiers, ice makers, and super market, ice area, and bar/restaurant equipment. The installation of electrical wiring to the unit is covered by sections 326.241 to 326.248.

Subd. 4. [OTHER EQUIPMENT.] Planning, laying out, alteration, replacement, or repair of heating, ventilating, air conditioning, or refrigeration equipment, and associated devices, controls, and wiring including wiring in or on the equipment, are not covered by sections 326.241 to 326.248 when the work is performed by an employee of a heating, ventilating, air conditioning, or refrigeration contractor provided that the employee performing the work has received a certificate of completion from a heating, ventilating, air conditioning, or refrigeration apprenticeship program approved by the state of Minnesota or any class of personal electrical license issued by the board. Employees registered in an approved heating, ventilating, air conditioning, or refrigeration program may design, plan, alter, replace, or repair heating, ventilating, air conditioning, or refrigeration equipment, devices, and controls including wiring in or on the equipment, under the

direction of an employee who has a certificate of completion from an approved program or any class of personal electrical license issued by the board. The installation of electrical wiring to the unit is covered by sections 326.241 to 326.248."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

S.F. No. 2150 was read the third time, as amended, and placed on its final passage.

The question was taken on the passage of the bill, as amended.

The roll was called, and there were yeas 63 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Frederickson	Krentz	Orfield	Samuelson
Bachmann	Higgins	Langseth	Ourada	Scheevel
Belanger	Hottinger	Larson	Pappas	Scheid
Berg	Johnson, Dave	Lesewski	Pariseau	Schwab
Berglin	Johnson, Dean	Lessard	Pogemiller	Solon, Y.P.
Betzold	Johnson, Debbie	Limmer	Price	Stevens
Chaudhary	Johnson, Doug	Marty	Reiter	Stumpf
Cohen	Kelley, S.P.	Metzen	Rest	Tomassoni
Day	Kierlin	Moe, R.D.	Ring	Vickerman
Dille	Kinkel	Moua	Robertson	Wiener
Fischbach	Kiscaden	Neuville	Robling	Wiger
Foley	Kleis	Oliver	Sabo	
Fowler	Knutson	Olson	Sams	

So the bill, as amended, was passed and its title was agreed to.

SPECIAL ORDER

S.F. No. 709: A bill for an act relating to liquor; authorizing the cities of Minneapolis, St. Paul, and Duluth to adopt ordinances authorizing on-sales at hotels during certain hours; exempting certain sales from on-sale hours restrictions; amending Minnesota Statutes 2000, section 340A.504, by adding subdivisions.

Senator Higgins moved to amend S.F. No. 709 as follows:

Page 1, line 21, after "Paul," insert "Rochester, Bloomington, St. Cloud,"

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Kleis moved to amend S.F. No. 709 as follows:

Page 1, after line 8, insert:

"Section 1. Minnesota Statutes 2000, section 340A.504, subdivision 1, is amended to read:

Subdivision 1. [3.2 PERCENT MALT LIQUOR.] No sale of 3.2 percent malt liquor may be made between ~~1:00~~ 2:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, nor between ~~1:00~~ 2:00 a.m. and 12:00 noon on Sunday, provided that an establishment located on land owned by the metropolitan sports commission, or the sports arena for which one or more licenses have been issued under section 340A.404, subdivision 2, paragraph (c), may sell 3.2 percent malt liquor between 10:00 a.m. and 12:00 noon on a Sunday on which a sports or other event is scheduled to begin at that location on or before 1:00 p.m. of that day.

Sec. 2. Minnesota Statutes 2000, section 340A.504, subdivision 2, is amended to read:

Subd. 2. [INTOXICATING LIQUOR; ON-SALE.] No sale of intoxicating liquor for consumption on the licensed premises may be made:

(1) between ~~1:00~~ 2:00 a.m. and 8:00 a.m. on the days of Monday through Saturday;

(2) after ~~1:00~~ 2:00 a.m. on Sundays, except as provided by subdivision 3."

Pages 1 and 2, delete section 2 and insert:

"Sec. 4. Minnesota Statutes 2000, section 340A.504, subdivision 3, is amended to read:

Subd. 3. [INTOXICATING LIQUOR; SUNDAY SALES; ON-SALE.] (a) A restaurant, club, bowling center, or hotel with a seating capacity for at least 30 persons and which holds an on-sale intoxicating liquor license may sell intoxicating liquor for consumption on the premises in conjunction with the sale of food between the hours of 12:00 noon on Sundays and ~~1:00~~ 2:00 a.m. on Mondays.

(b) The governing body of a municipality may after one public hearing by ordinance permit a restaurant, hotel, bowling center, or club to sell alcoholic beverages for consumption on the premises in conjunction with the sale of food between the hours of 10:00 a.m. on Sundays and ~~1:00~~ 2:00 a.m. on Mondays, provided that the licensee is in conformance with the Minnesota Clean Air Act.

(c) An establishment serving intoxicating liquor on Sundays must obtain a Sunday license. The license must be issued by the governing body of the municipality for a period of one year, and the fee for the license may not exceed $200.

(d) A city may issue a Sunday intoxicating liquor license only if authorized to do so by the voters of the city voting on the question at a general or special election. A county may issue a Sunday intoxicating liquor license in a town only if authorized to do so by the voters of the town as provided in paragraph (e). A county may issue a Sunday intoxicating liquor license in unorganized territory only if authorized to do so by the voters of the election precinct that contains the licensed premises, voting on the question at a general or special election.

(e) An election conducted in a town on the question of the issuance by the county of Sunday sales licenses to establishments located in the town must be held on the day of the annual election of town officers.

(f) Voter approval is not required for licenses issued by the metropolitan airports commission or common carrier licenses issued by the commissioner. Common carriers serving intoxicating liquor on Sunday must obtain a Sunday license from the commissioner at an annual fee of $50, plus $20 for each duplicate."

Page 2, line 14, delete "Sections 1 and 2 are" and insert "This act is"

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Oliver moved to amend the Kleis amendment to S.F. No. 709, as adopted by the Senate March 26, 2002, as follows:

Page 1, lines 21 and 23, delete "2:00" and insert "3:00"

The motion did not prevail. So the amendment was not adopted.

RECONSIDERATION

Having voted on the prevailing side, Senator Anderson moved that the vote whereby the Kleis amendment to S.F. No. 709 was adopted on March 26, 2002, be now reconsidered. The motion prevailed. So the vote was reconsidered.

CALL OF THE SENATE

Senator Kleis imposed a call of the Senate for the balance of the proceedings on S.F. No. 709. The Sergeant at Arms was instructed to bring in the absent members.

The question recurred on the adoption of the Kleis amendment.

The roll was called, and there were yeas 16 and nays 46, as follows:

Those who voted in the affirmative were:

Belanger	Johnson, Debbie	Metzen	Reiter	Stevens
Day	Kleis	Murphy	Robertson	Terwilliger
Fischbach	Lessard	Ourada	Scheid	Tomassoni
Johnson, Dave				

Those who voted in the negative were:

Anderson	Frederickson	Langseth	Pariseau	Schwab
Bachmann	Higgins	Lesewski	Pogemiller	Solon, Y.P.
Berg	Hottinger	Limmer	Price	Stumpf
Berglin	Johnson, Dean	Marty	Rest	Vickerman
Betzold	Kelley, S.P.	Moua	Ring	Wiener
Chaudhary	Kierlin	Neuville	Robling	Wiger
Cohen	Kinkel	Oliver	Sabo	
Dille	Kiscaden	Olson	Sams	
Foley	Knutson	Orfield	Samuelson	
Fowler	Krentz	Pappas	Scheevel	

The motion did not prevail. So the amendment was not adopted.

Senator Oliver moved to amend S.F. No. 709 as follows:

Page 1, line 24, after "liquor" insert "to its hotel guests"

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 7 and nays 55, as follows:

Those who voted in the affirmative were:

Dille	Larson	Rest	Robling	Scheevel
Frederickson	Oliver			

Those who voted in the negative were:

Anderson	Fowler	Knutson	Orfield	Samuelson
Bachmann	Higgins	Krentz	Ourada	Scheid
Belanger	Hottinger	Langseth	Pappas	Schwab
Berg	Johnson, Dave	Lessard	Pariseau	Solon, Y.P.
Berglin	Johnson, Dean	Limmer	Pogemiller	Stevens
Betzold	Johnson, Debbie	Marty	Price	Stumpf
Chaudhary	Kelley, S.P.	Metzen	Reiter	Terwilliger
Cohen	Kierlin	Moe, R.D.	Ring	Tomassoni
Day	Kinkel	Moua	Robertson	Vickerman
Fischbach	Kiscaden	Murphy	Sabo	Wiener
Foley	Kleis	Olson	Sams	Wiger

The motion did not prevail. So the amendment was not adopted.

Senator Foley moved to amend S.F. No. 709 as follows:

Page 1, after line 8, insert:

"Section 1. Minnesota Statutes 2000, section 97B.065, subdivision 1, is amended to read:

Subdivision 1. [ACTS PROHIBITED.] (a) A person may not take wild animals with a firearm or by archery:

(1) when the person is under the influence of alcohol;

(2) when the person is under the influence of a controlled substance, as defined in section 152.01, subdivision 4;

(3) when the person is under the influence of a combination of any two or more of the elements in clauses (1) and (2);

(4) when the person's alcohol concentration is ~~0.10~~ 0.08 or more;

(5) when the person's alcohol concentration as measured within two hours of the time of taking is ~~0.10~~ 0.08 or more; or

(6) when the person is knowingly under the influence of any chemical compound or combination of chemical compounds that is listed as a hazardous substance in rules adopted under section 182.655 and that affects the nervous system, brain, or muscles of the person so as to substantially impair the person's ability to operate a firearm or bow and arrow.

(b) An owner or other person having charge or control of a firearm or bow and arrow may not authorize or permit an individual the person knows or has reason to believe is under the influence of alcohol or a controlled substance, as provided under paragraph (a), to possess the firearm or bow and arrow in this state or on a boundary water of this state.

Sec. 2. Minnesota Statutes 2000, section 97B.066, subdivision 1, is amended to read:

Subdivision 1. [MANDATORY CHEMICAL TESTING.] A person who takes wild animals with a bow or firearm in this state or on a boundary water of this state is required, subject to the provisions of this section, to take or submit to a test of the person's blood, breath, or urine for the purpose of determining the presence and amount of alcohol or a controlled substance. The test shall be administered at the direction of an officer authorized to make arrests under section 97B.065, subdivision 2. Taking or submitting to the test is mandatory when requested by an officer who has probable cause to believe the person was hunting in violation of section 97B.065, subdivision 1, paragraph (a), and one of the following conditions exists:

(1) the person has been lawfully placed under arrest for violating section 97B.065, subdivision 1, paragraph (a);

(2) the person has been involved while hunting in an accident resulting in property damage, personal injury, or death;

(3) the person has refused to take the preliminary screening test provided for in section 97B.065, subdivision 3; or

(4) the screening test was administered and indicated an alcohol concentration of ~~0.10~~ 0.08 or more.

Sec. 3. Minnesota Statutes 2000, section 169A.20, subdivision 1, is amended to read:

Subdivision 1. [DRIVING WHILE IMPAIRED CRIME.] It is a crime for any person to drive, operate, or be in physical control of any motor vehicle within this state or on any boundary water of this state:

(1) when the person is under the influence of alcohol;

(2) when the person is under the influence of a controlled substance;

(3) when the person is knowingly under the influence of a hazardous substance that affects the nervous system, brain, or muscles of the person so as to substantially impair the person's ability to drive or operate the motor vehicle;

(4) when the person is under the influence of a combination of any two or more of the elements named in clauses (1), (2), and (3);

(5) when the person's alcohol concentration at the time, or as measured within two hours of the time, of driving, operating, or being in physical control of the motor vehicle is ~~0.10~~ 0.08 or more;

(6) when the vehicle is a commercial motor vehicle and the person's alcohol concentration at the time, or as measured within two hours of the time, of driving, operating, or being in physical control of the commercial motor vehicle is 0.04 or more; or

(7) when the person's body contains any amount of a controlled substance listed in schedule I or II other than marijuana or tetrahydrocannabinols.

Sec. 4. Minnesota Statutes 2000, section 169A.51, subdivision 1, is amended to read:

Subdivision 1. [IMPLIED CONSENT; CONDITIONS; ELECTION OF TEST.] (a) Any person who drives, operates, or is in physical control of a motor vehicle within this state or on any boundary water of this state consents, subject to the provisions of sections 169A.50 to 169A.53 (implied consent law), and section 169A.20 (driving while impaired), to a chemical test of that person's blood, breath, or urine for the purpose of determining the presence of alcohol, controlled substances, or hazardous substances. The test must be administered at the direction of a peace officer.

(b) The test may be required of a person when an officer has probable cause to believe the person was driving, operating, or in physical control of a motor vehicle in violation of section 169A.20 (driving while impaired), and one of the following conditions exist:

(1) the person has been lawfully placed under arrest for violation of section 169A.20 or an ordinance in conformity with it;

(2) the person has been involved in a motor vehicle accident or collision resulting in property damage, personal injury, or death;

(3) the person has refused to take the screening test provided for by section 169A.41 (preliminary screening test); or

(4) the screening test was administered and indicated an alcohol concentration of ~~0.10~~ 0.08 or more.

(c) The test may also be required of a person when an officer has probable cause to believe the person was driving, operating, or in physical control of a commercial motor vehicle with the presence of any alcohol.

Sec. 5. Minnesota Statutes 2000, section 169A.52, subdivision 2, is amended to read:

Subd. 2. [REPORTING TEST FAILURE.] If a person submits to a test, the results of that test must be reported to the commissioner and to the authority having responsibility for prosecution of impaired driving offenses for the jurisdiction in which the acts occurred, if the test results indicate:

(1) an alcohol concentration of ~~0.10~~ 0.08 or more;

(2) an alcohol concentration of 0.04 or more, if the person was driving, operating, or in physical control of a commercial motor vehicle at the time of the violation; or

(3) the presence of a controlled substance listed in schedule I or II, other than marijuana or tetrahydrocannabinols.

Sec. 6. Minnesota Statutes 2000, section 169A.52, subdivision 4, is amended to read:

Subd. 4. [TEST FAILURE; LICENSE REVOCATION.] (a) Upon certification by the peace officer that there existed probable cause to believe the person had been driving, operating, or in physical control of a motor vehicle in violation of section 169A.20 (driving while impaired) and that the person submitted to a test and the test results indicate an alcohol concentration of ~~0.10~~ 0.08 or more or the presence of a controlled substance listed in schedule I or II, other than marijuana or tetrahydrocannabinols, then the commissioner shall revoke the person's license or permit to drive, or nonresident operating privilege:

(1) for a period of 90 days;

(2) if the person is under the age of 21 years, for a period of six months;

(3) for a person with a qualified prior impaired driving incident within the past ten years, for a period of 180 days; or

(4) if the test results indicate an alcohol concentration of 0.20 or more, for twice the applicable period in clauses (1) to (3).

(b) On certification by the peace officer that there existed probable cause to believe the person had been driving, operating, or in physical control of a commercial motor vehicle with any presence of alcohol and that the person submitted to a test and the test results indicated an alcohol concentration of 0.04 or more, the commissioner shall disqualify the person from operating a commercial motor vehicle under section 171.165 (commercial driver's license disqualification).

Sec. 7. Minnesota Statutes 2000, section 169A.52, subdivision 7, is amended to read:

Subd. 7. [TEST REFUSAL; DRIVING PRIVILEGE LOST.] (a) On behalf of the commissioner, a peace officer requiring a test or directing the administration of a chemical test shall serve immediate notice of intention to revoke and of revocation on a person who refuses to permit a test or on a person who submits to a test the results of which indicate an alcohol concentration of ~~0.10~~ 0.08 or more.

(b) On behalf of the commissioner, a peace officer requiring a test or directing the administration of a chemical test of a person driving, operating, or in physical control of a commercial motor vehicle shall serve immediate notice of intention to disqualify and of disqualification on a person who refuses to permit a test, or on a person who submits to a test the results of which indicate an alcohol concentration of 0.04 or more.

(c) The officer shall either:

(1) take the driver's license or permit, if any, send it to the commissioner along with the certificate required by subdivision 3 or 4, and issue a temporary license effective only for seven days; or

(2) invalidate the driver's license or permit in such a way that no identifying information is destroyed.

Sec. 8. Minnesota Statutes 2000, section 169A.53, subdivision 3, is amended to read:

Subd. 3. [HEARING; ISSUES; ORDER; APPEAL.] (a) A judicial review hearing under this section must be before a district judge in any county in the judicial district where the alleged offense occurred. The hearing is to the court and may be conducted at the same time and in the same manner as hearings upon pretrial motions in the criminal prosecution under section 169A.20 (driving while impaired), if any. The hearing must be recorded. The commissioner shall appear and be represented by the attorney general or through the prosecuting authority for the jurisdiction involved. The hearing must be held at the earliest practicable date, and in any event no later than 60 days following the filing of the petition for review. The judicial district administrator shall establish procedures to ensure efficient compliance with this subdivision. To accomplish this, the administrator may, whenever possible, consolidate and transfer review hearings among the locations within the judicial district where terms of district court are held.

(b) The scope of the hearing is limited to the issues in clauses (1) to (10):

(1) Did the peace officer have probable cause to believe the person was driving, operating, or in physical control of a motor vehicle or commercial motor vehicle in violation of section 169A.20 (driving while impaired)?

(2) Was the person lawfully placed under arrest for violation of section 169A.20?

(3) Was the person involved in a motor vehicle accident or collision resulting in property damage, personal injury, or death?

(4) Did the person refuse to take a screening test provided for by section 169A.41 (preliminary screening test)?

(5) If the screening test was administered, did the test indicate an alcohol concentration of ~~0.10~~ 0.08 or more?

(6) At the time of the request for the test, did the peace officer inform the person of the person's rights and the consequences of taking or refusing the test as required by section 169A.51, subdivision 2?

(7) Did the person refuse to permit the test?

(8) If a test was taken by a person driving, operating, or in physical control of a motor vehicle, did the test results indicate at the time of testing:

(i) an alcohol concentration of ~~0.10~~ 0.08 or more; or

(ii) the presence of a controlled substance listed in schedule I or II, other than marijuana or tetrahydrocannabinols?

(9) If a test was taken by a person driving, operating, or in physical control of a commercial motor vehicle, did the test results indicate an alcohol concentration of 0.04 or more at the time of testing?

(10) Was the testing method used valid and reliable and were the test results accurately evaluated?

(c) It is an affirmative defense for the petitioner to prove that, at the time of the refusal, the petitioner's refusal to permit the test was based upon reasonable grounds.

(d) Certified or otherwise authenticated copies of laboratory or medical personnel reports, records, documents, licenses, and certificates are admissible as substantive evidence.

(e) The court shall order that the revocation or disqualification be either rescinded or sustained and forward the order to the commissioner. The court shall file its order within 14 days following the hearing. If the revocation or disqualification is sustained, the court shall also forward the person's driver's license or permit to the commissioner for further action by the commissioner if the license or permit is not already in the commissioner's possession.

(f) Any party aggrieved by the decision of the reviewing court may appeal the decision as provided in the rules of appellate procedure.

Sec. 9. Minnesota Statutes 2000, section 169A.54, subdivision 7, is amended to read:

Subd. 7. [ALCOHOL-RELATED COMMERCIAL VEHICLE DRIVING VIOLATIONS.] (a) The administrative penalties described in subdivision 1 do not apply to violations of section 169A.20, subdivision 1 (driving while impaired crime), by a person operating a commercial motor vehicle unless the person's alcohol concentration as measured at the time, or within two hours of the time, of the operation was ~~0.10~~ 0.08 or more or the person violates section 169A.20, subdivision 1, clauses (1) to (4) or (7).

(b) The commissioner shall disqualify a person from operating a commercial motor vehicle as provided under section 171.165 (commercial driver's license, disqualification), on receipt of a record of conviction for a violation of section 169A.20.

(c) A person driving, operating, or in physical control of a commercial motor vehicle with any presence of alcohol is prohibited from operating a commercial motor vehicle for 24 hours from issuance of an out-of-service order.

Sec. 10. Minnesota Statutes 2000, section 169A.76, is amended to read:

169A.76 [CIVIL ACTION; PUNITIVE DAMAGES.]

(a) In a civil action involving a motor vehicle accident, it is sufficient for the trier of fact to consider an award of punitive damages if there is evidence that the accident was caused by a driver:

(1) with an alcohol concentration of ~~0.10~~ 0.08 or more;

(2) who was under the influence of a controlled substance;

(3) who was under the influence of alcohol and refused to take a test required under section 169A.51 (chemical tests for intoxication); or

(4) who was knowingly under the influence of a hazardous substance that substantially affects the person's nervous system, brain, or muscles so as to impair the person's ability to drive or operate a motor vehicle.

(b) A criminal charge or conviction is not a prerequisite to consideration of punitive damages under this section. At the trial in an action where the trier of fact will consider an award of punitive damages, evidence that the driver has been convicted of violating section 169A.20 (driving while impaired) or 609.21 (criminal vehicular homicide and injury) is admissible into evidence.

Sec. 11. Minnesota Statutes 2000, section 171.20, subdivision 4, is amended to read:

Subd. 4. [REINSTATEMENT FEE.] Before the license is reinstated, a person whose driver's license has been suspended under section 171.16, subdivision 2; 171.18, except subdivision 1, clause (10); or 171.182, or who has been disqualified from holding a commercial driver's license under section 171.165, must pay a fee of ~~$20~~ $22.50. When fees are collected by a licensing agent appointed under section 171.061, a handling charge is imposed in the amount specified under section 171.061, subdivision 4. The reinstatement fee and surcharge must be deposited in an approved state depository as directed under section 171.061, subdivision 4. A suspension may be rescinded without fee for good cause.

Sec. 12. Minnesota Statutes 2000, section 192A.555, is amended to read:

192A.555 [DRUNKEN OR RECKLESS DRIVING.]

Any person subject to this code who drives, operates or is in actual physical control of any vehicle or aircraft while under the influence of an alcoholic beverage or narcotic drug or a combination thereof or whose blood contains ~~0.10~~ 0.08 percent or more by weight of alcohol or who operates said vehicle or aircraft in a reckless or wanton manner, shall be punished as a court-martial may direct. Chemical and other tests for intoxication shall be made only in accordance with rules issued under this code."

Page 2, after line 12, insert:

"Sec. 15. Minnesota Statutes 2000, section 609.21, is amended to read:

609.21 [CRIMINAL VEHICULAR HOMICIDE AND INJURY.]

Subdivision 1. [CRIMINAL VEHICULAR HOMICIDE.] A person is guilty of criminal

vehicular homicide resulting in death and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both, if the person causes the death of a human being not constituting murder or manslaughter as a result of operating a motor vehicle:

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of:

(i) alcohol;

(ii) a controlled substance; or

(iii) any combination of those elements;

(3) while having an alcohol concentration of ~~0.10~~ 0.08 or more;

(4) while having an alcohol concentration of ~~0.10~~ 0.08 or more, as measured within two hours of the time of driving;

(5) in a negligent manner while knowingly under the influence of a hazardous substance;

(6) in a negligent manner while any amount of a controlled substance listed in schedule I or II, other than marijuana or tetrahydrocannabinols, is present in the person's body; or

(7) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6.

Subd. 2. [RESULTING IN GREAT BODILY HARM.] A person is guilty of criminal vehicular operation resulting in great bodily harm and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both, if the person causes great bodily harm to another, not constituting attempted murder or assault, as a result of operating a motor vehicle:

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of:

(i) alcohol;

(ii) a controlled substance; or

(iii) any combination of those elements;

(3) while having an alcohol concentration of ~~0.10~~ 0.08 or more;

(4) while having an alcohol concentration of ~~0.10~~ 0.08 or more, as measured within two hours of the time of driving;

(5) in a negligent manner while knowingly under the influence of a hazardous substance;

(6) in a negligent manner while any amount of a controlled substance listed in schedule I or II, other than marijuana or tetrahydrocannabinols, is present in the person's body; or

(7) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6.

Subd. 2a. [RESULTING IN SUBSTANTIAL BODILY HARM.] A person is guilty of criminal vehicular operation resulting in substantial bodily harm and may be sentenced to imprisonment of not more than three years or to payment of a fine of not more than $10,000, or both, if the person causes substantial bodily harm to another, as a result of operating a motor vehicle;

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of:

(i) alcohol;

(ii) a controlled substance; or

(iii) any combination of those elements;

(3) while having an alcohol concentration of ~~0.10~~ 0.08 or more;

(4) while having an alcohol concentration of ~~0.10~~ 0.08 or more, as measured within two hours of the time of driving;

(5) in a negligent manner while knowingly under the influence of a hazardous substance;

(6) in a negligent manner while any amount of a controlled substance listed in schedule I or II, other than marijuana or tetrahydrocannabinols, is present in the person's body; or

(7) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6.

Subd. 2b. [RESULTING IN BODILY HARM.] A person is guilty of criminal vehicular operation resulting in bodily harm and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both, if the person causes bodily harm to another, as a result of operating a motor vehicle:

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of:

(i) alcohol;

(ii) a controlled substance; or

(iii) any combination of those elements;

(3) while having an alcohol concentration of ~~0.10~~ 0.08 or more;

(4) while having an alcohol concentration of ~~0.10~~ 0.08 or more, as measured within two hours of the time of driving;

(5) in a negligent manner while knowingly under the influence of a hazardous substance;

(6) in a negligent manner while any amount of a controlled substance listed in schedule I or II, other than marijuana or tetrahydrocannabinols, is present in the person's body; or

(7) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6.

Subd. 3. [RESULTING IN DEATH TO AN UNBORN CHILD.] A person is guilty of criminal vehicular operation resulting in death to an unborn child and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both, if the person causes the death of an unborn child as a result of operating a motor vehicle:

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of:

(i) alcohol;

(ii) a controlled substance; or

(iii) any combination of those elements;

(3) while having an alcohol concentration of ~~0.10~~ 0.08 or more;

(4) while having an alcohol concentration of ~~0.10~~ 0.08 or more, as measured within two hours of the time of driving;

(5) in a negligent manner while knowingly under the influence of a hazardous substance;

(6) in a negligent manner while any amount of a controlled substance listed in schedule I or II, other than marijuana or tetrahydrocannabinols, is present in the person's body; or

(7) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6.

A prosecution for or conviction of a crime under this subdivision is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.

Subd. 4. [RESULTING IN INJURY TO UNBORN CHILD.] A person is guilty of criminal vehicular operation resulting in injury to an unborn child and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both, if the person causes great bodily harm to an unborn child who is subsequently born alive, as a result of operating a motor vehicle:

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of:

(i) alcohol;

(ii) a controlled substance; or

(iii) any combination of those elements;

(3) while having an alcohol concentration of ~~0.10~~ 0.08 or more;

(4) while having an alcohol concentration of ~~0.10~~ 0.08 or more, as measured within two hours of the time of driving;

(5) in a negligent manner while knowingly under the influence of a hazardous substance;

(6) in a negligent manner while any amount of a controlled substance listed in schedule I or II, other than marijuana or tetrahydrocannabinols, is present in the person's body; or

(7) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6.

A prosecution for or conviction of a crime under this subdivision is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.

Subd. 4a. [AFFIRMATIVE DEFENSE.] It shall be an affirmative defense to a charge under subdivision 1, clause (6); 2, clause (6); 2a, clause (6); 2b, clause (6); 3, clause (6); or 4, clause (6), that the defendant used the controlled substance according to the terms of a prescription issued for the defendant in accordance with sections 152.11 and 152.12.

Subd. 5. [DEFINITIONS.] For purposes of this section, the terms defined in this subdivision have the meanings given them.

(a) "Motor vehicle" has the meaning given in section 609.52, subdivision 1.

(b) "Controlled substance" has the meaning given in section 152.01, subdivision 4.

(c) "Hazardous substance" means any chemical or chemical compound that is listed as a hazardous substance in rules adopted under chapter 182."

Page 2, after line 15, insert:

"Sections 1 to 10 and sections 12 and 15 are effective August 1, 2001, and apply to offenses committed on or after that date. Section 11 is effective July 1, 2001."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Senator Frederickson questioned whether the amendment was germane.

The President ruled that the amendment was not germane.

Senator Foley appealed the decision of the President.

The question was taken on "Shall the decision of the President be the judgment of the Senate?"

The roll was called, and there were yeas 47 and nays 17, as follows:

Those who voted in the affirmative were:

Belanger	Hottinger	Lessard	Reiter	Solon, Y.P.
Berg	Johnson, Dave	Metzen	Rest	Stevens
Berglin	Johnson, Dean	Moe, R.D.	Ring	Stumpf
Betzold	Johnson, Debbie	Moua	Robertson	Tomassoni
Cohen	Johnson, Doug	Murphy	Sabo	Vickerman
Day	Kierlin	Olson	Sams	Wiener
Fischbach	Kiscaden	Orfield	Samuelson	Wiger
Fowler	Kleis	Pappas	Scheevel	
Frederickson	Langseth	Pariseau	Scheid	
Higgins	Lesewski	Pogemiller	Schwab	

Those who voted in the negative were:

Anderson	Foley	Krentz	Neuville	Terwilliger
Bachmann	Kelley, S.P.	Larson	Oliver	
Chaudhary	Kinkel	Limmer	Price	
Dille	Knutson	Marty	Robling	

So the decision of the President was sustained.

S.F. No. 709 was read the third time, as amended, and placed on its final passage.

The question was taken on the passage of the bill, as amended.

The roll was called, and there were yeas 35 and nays 29, as follows:

Those who voted in the affirmative were:

Anderson	Higgins	Kleis	Orfield	Scheid
Belanger	Hottinger	Krentz	Ourada	Solon, Y.P.
Berglin	Johnson, Dave	Langseth	Pappas	Terwilliger
Betzold	Johnson, Doug	Lessard	Pogemiller	Tomassoni
Chaudhary	Kelley, S.P.	Moe, R.D.	Reiter	Vickerman
Cohen	Kierlin	Moua	Robertson	Wiener
Fischbach	Kiscaden	Murphy	Sabo	Wiger

Those who voted in the negative were:

Bachmann	Frederickson	Lesewski	Pariseau	Samuelson
Berg	Johnson, Dean	Limmer	Price	Scheevel
Day	Johnson, Debbie	Marty	Rest	Schwab
Dille	Kinkel	Neuville	Ring	Stevens
Foley	Knutson	Oliver	Robling	Stumpf
Fowler	Larson	Olson	Sams	

So the bill, as amended, was passed and its title was agreed to.

SPECIAL ORDER

S.F. No. 3098: A bill for an act relating to human services; clarifying exclusions from department of human services licensure, background study requirements, due process, training, and license delegations; amending fair hearing requirements; clarifying a provision related to errors when providing therapeutic conduct to a vulnerable adult; making technical changes to continuing care programs; repealing references to the continuing education infectious disease requirement for licensed acupuncturists; expanding the definition of project construction costs and of eligible nursing home; clarifying implementation deadlines for reimbursement classifications; clarifying medical assistance covered services; amending Minnesota Statutes 2000, sections 147B.02, subdivision 9; 245A.02, by adding subdivisions; 245A.04, by adding a subdivision; 256B.0625, by adding a subdivision; 256B.0915, subdivisions 4, 6, by adding a subdivision; 256B.431, subdivisions 14, 30; 256B.5012, subdivision 2; 626.557, subdivision 3a; Minnesota Statutes 2001 Supplement, sections 144A.071, subdivision 1a; 144A.36, subdivision 1; 245A.03, subdivision 2; 245A.04, subdivisions 3, 3a, 3b; 245A.07, subdivisions 2a, 3; 245A.144; 245A.16, subdivision 1; 256.045, subdivisions 3b, 4; 256B.0913, subdivisions 4, 5, 8, 10, 12, 14; 256B.0915, subdivision 5; 256B.431, subdivisions 2e, 33; 256B.437, subdivision 3; 256B.438, subdivision 1; 256B.76; 626.556, subdivision 10i; 626.557, subdivision 9d; proposing coding for new law in Minnesota Statutes, chapter 245A; repealing Minnesota Statutes 2000, section 147B.01, subdivisions 8, 15; Minnesota Statutes 2001 Supplement, section 256B.0621, subdivision 1.

Senator Berglin moved to amend S.F. No. 3098 as follows:

Page 29, line 9, after the semicolon, insert "or"

Page 29, line 14, delete everything before "the"

The motion prevailed. So the amendment was adopted.

Senator Berglin then moved to amend S.F. No. 3098 as follows:

Page 64, line 11, delete "and"

Page 64, line 13, before the period, insert ", and have not delicensed beds in the prior three months" and delete "delicensing five or fewer beds or less than" and insert "meeting these criteria"

Page 64, delete lines 14 and 15

Page 64, line 16, delete "plan"

Page 64, lines 21 to 26, delete the new language

Page 64, line 32, strike "closed" and insert "delicensed beds"

The motion prevailed. So the amendment was adopted.

Senator Berglin then moved to amend S.F. No. 3098 as follows:

Page 8, after line 19, insert:

"Sec. 7. Minnesota Statutes 2000, section 245A.035, subdivision 3, is amended to read:

Subd. 3. [REQUIREMENTS FOR EMERGENCY LICENSE.] Before an emergency license may be issued, the following requirements must be met:

(1) the county agency must conduct an initial inspection of the premises where the foster care is to be provided to ensure the health and safety of any child placed in the home. The county agency shall conduct the inspection using a form developed by the commissioner;

(2) at the time of the inspection or placement, whichever is earlier, the relative being considered for an emergency license shall receive an application form for a child foster care license; ~~and~~

(3) whenever possible, prior to placing the child in the relative's home, the relative being considered for an emergency license shall provide the information required by section 245A.04, subdivision 3, paragraph (b); and

(4) if the county determines, prior to the issuance of an emergency license, that the relative or family member may be disqualified from obtaining a foster care license, and the disqualification is one which the commissioner may not set aside, as required by this chapter, an emergency license shall not be issued."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Berglin then moved to amend S.F. No. 3098 as follows:

Page 1, after line 35, insert:

"Section 1. Minnesota Statutes 2000, section 144.335, subdivision 5, is amended to read:

Subd. 5. [COSTS.] (a) When a patient requests a copy of the patient's record for purposes of reviewing current medical care, the provider must not charge a fee.

(b) When a provider or its representative makes copies of patient records upon a patient's request under this section, the provider or its representative may charge the patient or the patient's representative no more than 75 cents per page, plus $10 for time spent retrieving and copying the records, unless other law or a rule or contract provide for a lower maximum charge. This limitation does not apply to x-rays. The provider may charge a patient no more than the actual cost of reproducing X-rays, plus no more than $10 for the time spent retrieving and copying the x-rays.

(c) The respective maximum charges of 75 cents per page and $10 for time provided in this subdivision are in effect for calendar year 1992 and may be adjusted annually each calendar year as provided in this subdivision. The permissible maximum charges shall change each year by an amount that reflects the change, as compared to the previous year, in the consumer price index for all urban consumers, Minneapolis-St. Paul (CPI-U), published by the department of labor.

(d) A provider or its representative must not charge a fee to provide copies of records requested by a patient or the patient's authorized representative if the request for copies of records is for purposes of appealing a denial of social security disability income or social security disability benefits under title II or title XVI of the Social Security Act."

Renumber the sections in sequence and correct the internal references

Amend the title as follows:

Page 1, line 15, after the semicolon, insert "removing the cost of obtaining health records when appealing a denial to a disability benefits program;"

The motion prevailed. So the amendment was adopted.

Senator Berglin then moved to amend S.F. No. 3098 as follows:

Page 34, after line 22, insert:

"Sec. 16. Minnesota Statutes 2001 Supplement, section 256.01, subdivision 2, as amended by Laws 2002, chapter 220, article 15, section 4, is amended to read:

Subd. 2. [SPECIFIC POWERS.] Subject to the provisions of section 241.021, subdivision 2, the commissioner of human services shall:

(1) Administer and supervise all forms of public assistance provided for by state law and other

welfare activities or services as are vested in the commissioner. Administration and supervision of human services activities or services includes, but is not limited to, assuring timely and accurate distribution of benefits, completeness of service, and quality program management. In addition to administering and supervising human services activities vested by law in the department, the commissioner shall have the authority to:

(a) require county agency participation in training and technical assistance programs to promote compliance with statutes, rules, federal laws, regulations, and policies governing human services;

(b) monitor, on an ongoing basis, the performance of county agencies in the operation and administration of human services, enforce compliance with statutes, rules, federal laws, regulations, and policies governing welfare services and promote excellence of administration and program operation;

(c) develop a quality control program or other monitoring program to review county performance and accuracy of benefit determinations;

(d) require county agencies to make an adjustment to the public assistance benefits issued to any individual consistent with federal law and regulation and state law and rule and to issue or recover benefits as appropriate;

(e) delay or deny payment of all or part of the state and federal share of benefits and administrative reimbursement according to the procedures set forth in section 256.017;

(f) make contracts with and grants to public and private agencies and organizations, both profit and nonprofit, and individuals, using appropriated funds; and

(g) enter into contractual agreements with federally recognized Indian tribes with a reservation in Minnesota to the extent necessary for the tribe to operate a federally approved family assistance program or any other program under the supervision of the commissioner. The commissioner shall consult with the affected county or counties in the contractual agreement negotiations, if the county or counties wish to be included, in order to avoid the duplication of county and tribal assistance program services. The commissioner may establish necessary accounts for the purposes of receiving and disbursing funds as necessary for the operation of the programs.

(2) Inform county agencies, on a timely basis, of changes in statute, rule, federal law, regulation, and policy necessary to county agency administration of the programs.

(3) Administer and supervise all child welfare activities; promote the enforcement of laws protecting handicapped, dependent, neglected and delinquent children, and children born to mothers who were not married to the children's fathers at the times of the conception nor at the births of the children; license and supervise child-caring and child-placing agencies and institutions; supervise the care of children in boarding and foster homes or in private institutions; and generally perform all functions relating to the field of child welfare now vested in the state board of control.

(4) Administer and supervise all noninstitutional service to handicapped persons, including those who are visually impaired, hearing impaired, or physically impaired or otherwise handicapped. The commissioner may provide and contract for the care and treatment of qualified indigent children in facilities other than those located and available at state hospitals when it is not feasible to provide the service in state hospitals.

(5) Assist and actively cooperate with other departments, agencies and institutions, local, state, and federal, by performing services in conformity with the purposes of Laws 1939, chapter 431.

(6) Act as the agent of and cooperate with the federal government in matters of mutual concern relative to and in conformity with the provisions of Laws 1939, chapter 431, including the administration of any federal funds granted to the state to aid in the performance of any functions of the commissioner as specified in Laws 1939, chapter 431, and including the promulgation of rules making uniformly available medical care benefits to all recipients of public assistance, at such times as the federal government increases its participation in assistance expenditures for

medical care to recipients of public assistance, the cost thereof to be borne in the same proportion as are grants of aid to said recipients.

(7) Establish and maintain any administrative units reasonably necessary for the performance of administrative functions common to all divisions of the department.

(8) Act as designated guardian of both the estate and the person of all the wards of the state of Minnesota, whether by operation of law or by an order of court, without any further act or proceeding whatever, except as to persons committed as mentally retarded. For children under the guardianship of the commissioner whose interests would be best served by adoptive placement, the commissioner may contract with a licensed child-placing agency or a Minnesota tribal social services agency to provide adoption services. A contract with a licensed child-placing agency must be designed to supplement existing county efforts and may not replace existing county programs, unless the replacement is agreed to by the county board and the appropriate exclusive bargaining representative or the commissioner has evidence that child placements of the county continue to be substantially below that of other counties. Funds encumbered and obligated under an agreement for a specific child shall remain available until the terms of the agreement are fulfilled or the agreement is terminated.

(9) Act as coordinating referral and informational center on requests for service for newly arrived immigrants coming to Minnesota.

(10) The specific enumeration of powers and duties as hereinabove set forth shall in no way be construed to be a limitation upon the general transfer of powers herein contained.

(11) Establish county, regional, or statewide schedules of maximum fees and charges which may be paid by county agencies for medical, dental, surgical, hospital, nursing and nursing home care and medicine and medical supplies under all programs of medical care provided by the state and for congregate living care under the income maintenance programs.

(12) Have the authority to conduct and administer experimental projects to test methods and procedures of administering assistance and services to recipients or potential recipients of public welfare. To carry out such experimental projects, it is further provided that the commissioner of human services is authorized to waive the enforcement of existing specific statutory program requirements, rules, and standards in one or more counties. The order establishing the waiver shall provide alternative methods and procedures of administration, shall not be in conflict with the basic purposes, coverage, or benefits provided by law, and in no event shall the duration of a project exceed four years. It is further provided that no order establishing an experimental project as authorized by the provisions of this section shall become effective until the following conditions have been met:

(a) The secretary of health and human services of the United States has agreed, for the same project, to waive state plan requirements relative to statewide uniformity.

(b) A comprehensive plan, including estimated project costs, shall be approved by the legislative advisory commission and filed with the commissioner of administration.

(13) According to federal requirements, establish procedures to be followed by local welfare boards in creating citizen advisory committees, including procedures for selection of committee members.

(14) Allocate federal fiscal disallowances or sanctions which are based on quality control error rates for the aid to families with dependent children program formerly codified in sections 256.72 to 256.87, medical assistance, or food stamp program in the following manner:

(a) One-half of the total amount of the disallowance shall be borne by the county boards responsible for administering the programs. For the medical assistance and the AFDC program formerly codified in sections 256.72 to 256.87, disallowances shall be shared by each county board in the same proportion as that county's expenditures for the sanctioned program are to the total of all counties' expenditures for the AFDC program formerly codified in sections 256.72 to 256.87, and medical assistance programs. For the food stamp program, sanctions shall be shared

by each county board, with 50 percent of the sanction being distributed to each county in the same proportion as that county's administrative costs for food stamps are to the total of all food stamp administrative costs for all counties, and 50 percent of the sanctions being distributed to each county in the same proportion as that county's value of food stamp benefits issued are to the total of all benefits issued for all counties. Each county shall pay its share of the disallowance to the state of Minnesota. When a county fails to pay the amount due hereunder, the commissioner may deduct the amount from reimbursement otherwise due the county, or the attorney general, upon the request of the commissioner, may institute civil action to recover the amount due.

(b) Notwithstanding the provisions of paragraph (a), if the disallowance results from knowing noncompliance by one or more counties with a specific program instruction, and that knowing noncompliance is a matter of official county board record, the commissioner may require payment or recover from the county or counties, in the manner prescribed in paragraph (a), an amount equal to the portion of the total disallowance which resulted from the noncompliance, and may distribute the balance of the disallowance according to paragraph (a).

(15) Develop and implement special projects that maximize reimbursements and result in the recovery of money to the state. For the purpose of recovering state money, the commissioner may enter into contracts with third parties. Any recoveries that result from projects or contracts entered into under this paragraph shall be deposited in the state treasury and credited to a special account until the balance in the account reaches $1,000,000. When the balance in the account exceeds $1,000,000, the excess shall be transferred and credited to the general fund. All money in the account is appropriated to the commissioner for the purposes of this paragraph.

(16) Have the authority to make direct payments to facilities providing shelter to women and their children according to section 256D.05, subdivision 3. Upon the written request of a shelter facility that has been denied payments under section 256D.05, subdivision 3, the commissioner shall review all relevant evidence and make a determination within 30 days of the request for review regarding issuance of direct payments to the shelter facility. Failure to act within 30 days shall be considered a determination not to issue direct payments.

(17) Have the authority to establish and enforce the following county reporting requirements:

(a) The commissioner shall establish fiscal and statistical reporting requirements necessary to account for the expenditure of funds allocated to counties for human services programs. When establishing financial and statistical reporting requirements, the commissioner shall evaluate all reports, in consultation with the counties, to determine if the reports can be simplified or the number of reports can be reduced.

(b) The county board shall submit monthly or quarterly reports to the department as required by the commissioner. Monthly reports are due no later than 15 working days after the end of the month. Quarterly reports are due no later than 30 calendar days after the end of the quarter, unless the commissioner determines that the deadline must be shortened to 20 calendar days to avoid jeopardizing compliance with federal deadlines or risking a loss of federal funding. Only reports that are complete, legible, and in the required format shall be accepted by the commissioner.

(c) If the required reports are not received by the deadlines established in clause (b), the commissioner may delay payments and withhold funds from the county board until the next reporting period. When the report is needed to account for the use of federal funds and the late report results in a reduction in federal funding, the commissioner shall withhold from the county boards with late reports an amount equal to the reduction in federal funding until full federal funding is received.

(d) A county board that submits reports that are late, illegible, incomplete, or not in the required format for two out of three consecutive reporting periods is considered noncompliant. When a county board is found to be noncompliant, the commissioner shall notify the county board of the reason the county board is considered noncompliant and request that the county board develop a corrective action plan stating how the county board plans to correct the problem. The corrective action plan must be submitted to the commissioner within 45 days after the date the county board received notice of noncompliance.

(e) The final deadline for fiscal reports or amendments to fiscal reports is one year after the date the report was originally due. If the commissioner does not receive a report by the final deadline, the county board forfeits the funding associated with the report for that reporting period and the county board must repay any funds associated with the report received for that reporting period.

(f) The commissioner may not delay payments, withhold funds, or require repayment under paragraph (c) or (e) if the county demonstrates that the commissioner failed to provide appropriate forms, guidelines, and technical assistance to enable the county to comply with the requirements. If the county board disagrees with an action taken by the commissioner under paragraph (c) or (e), the county board may appeal the action according to sections 14.57 to 14.69.

(g) Counties subject to withholding of funds under paragraph (c) or forfeiture or repayment of funds under paragraph (e) shall not reduce or withhold benefits or services to clients to cover costs incurred due to actions taken by the commissioner under paragraph (c) or (e).

(18) Allocate federal fiscal disallowances or sanctions for audit exceptions when federal fiscal disallowances or sanctions are based on a statewide random sample for the foster care program under title IV-E of the Social Security Act, United States Code, title 42, in direct proportion to each county's title IV-E foster care maintenance claim for that period.

(19) Be responsible for ensuring the detection, prevention, investigation, and resolution of fraudulent activities or behavior by applicants, recipients, and other participants in the human services programs administered by the department.

(20) Require county agencies to identify overpayments, establish claims, and utilize all available and cost-beneficial methodologies to collect and recover these overpayments in the human services programs administered by the department.

(21) Have the authority to administer a drug rebate program for drugs purchased pursuant to the prescription drug program established under section 256.955 after the beneficiary's satisfaction of any deductible established in the program. The commissioner shall require a rebate agreement from all manufacturers of covered drugs as defined in section 256B.0625, subdivision 13. Rebate agreements for prescription drugs delivered on or after July 1, 2002, must include rebates for individuals covered under the prescription drug program who are under 65 years of age. For each drug, the amount of the rebate shall be equal to the basic rebate as defined for purposes of the federal rebate program in United States Code, title 42, section 1396r-8(c)(1). This basic rebate shall be applied to single-source and multiple-source drugs. The manufacturers must provide full payment within 30 days of receipt of the state invoice for the rebate within the terms and conditions used for the federal rebate program established pursuant to section 1927 of title XIX of the Social Security Act. The manufacturers must provide the commissioner with any information necessary to verify the rebate determined per drug. The rebate program shall utilize the terms and conditions used for the federal rebate program established pursuant to section 1927 of title XIX of the Social Security Act.

(22) Have the authority to administer the federal drug rebate program for drugs purchased under the medical assistance program as allowed by section 1927 of title XIX of the Social Security Act and according to the terms and conditions of section 1927. Rebates shall be collected for all drugs that have been dispensed or administered in an outpatient setting and that are from manufacturers who have signed a rebate agreement with the United States Department of Health and Human Services.

(23) Have the authority to administer a supplemental drug rebate program for drugs purchased under the medical assistance program ~~and under the prescription drug program established in section 256.955~~. The commissioner may enter into supplemental rebate contracts with pharmaceutical manufacturers and may require prior authorization for drugs that are from manufacturers that have not signed a supplemental rebate contract. Prior authorization of drugs shall be subject to the provisions of section 256B.0625, subdivision 13~~, paragraph (b)~~.

(24) Operate the department's communication systems account established in Laws 1993, First

Special Session chapter 1, article 1, section 2, subdivision 2, to manage shared communication costs necessary for the operation of the programs the commissioner supervises. A communications account may also be established for each regional treatment center which operates communications systems. Each account must be used to manage shared communication costs necessary for the operations of the programs the commissioner supervises. The commissioner may distribute the costs of operating and maintaining communication systems to participants in a manner that reflects actual usage. Costs may include acquisition, licensing, insurance, maintenance, repair, staff time and other costs as determined by the commissioner. Nonprofit organizations and state, county, and local government agencies involved in the operation of programs the commissioner supervises may participate in the use of the department's communications technology and share in the cost of operation. The commissioner may accept on behalf of the state any gift, bequest, devise or personal property of any kind, or money tendered to the state for any lawful purpose pertaining to the communication activities of the department. Any money received for this purpose must be deposited in the department's communication systems accounts. Money collected by the commissioner for the use of communication systems must be deposited in the state communication systems account and is appropriated to the commissioner for purposes of this section.

(25) Receive any federal matching money that is made available through the medical assistance program for the consumer satisfaction survey. Any federal money received for the survey is appropriated to the commissioner for this purpose. The commissioner may expend the federal money received for the consumer satisfaction survey in either year of the biennium.

(26) Incorporate cost reimbursement claims from First Call Minnesota and Greater Twin Cities United Way into the federal cost reimbursement claiming processes of the department according to federal law, rule, and regulations. Any reimbursement received is appropriated to the commissioner and shall be disbursed to First Call Minnesota and Greater Twin Cities United Way according to normal department payment schedules.

(27) Develop recommended standards for foster care homes that address the components of specialized therapeutic services to be provided by foster care homes with those services."

Page 37, after line 23, insert:

"Sec. 19. Minnesota Statutes 2001 Supplement, section 256B.0625, subdivision 13, as amended by Laws 2002, chapter 220, article 15, section 13, is amended to read:

Subd. 13. [DRUGS.] (a) Medical assistance covers drugs, except for fertility drugs when specifically used to enhance fertility, if prescribed by a licensed practitioner and dispensed by a licensed pharmacist, by a physician enrolled in the medical assistance program as a dispensing physician, or by a physician or a nurse practitioner employed by or under contract with a community health board as defined in section 145A.02, subdivision 5, for the purposes of communicable disease control. The commissioner, after receiving recommendations from professional medical associations and professional pharmacist associations, shall designate a formulary committee to advise the commissioner on the names of drugs for which payment is made, recommend a system for reimbursing providers on a set fee or charge basis rather than the present system, and develop methods encouraging use of generic drugs when they are less expensive and equally effective as trademark drugs. The formulary committee shall consist of nine members, four of whom shall be physicians who are not employed by the department of human services, and a majority of whose practice is for persons paying privately or through health insurance, three of whom shall be pharmacists who are not employed by the department of human services, and a majority of whose practice is for persons paying privately or through health insurance, a consumer representative, and a nursing home representative. Committee members shall serve three-year terms and shall serve without compensation. Members may be reappointed once.

(b) The commissioner shall establish a drug formulary. Its establishment and publication shall not be subject to the requirements of the Administrative Procedure Act, but the formulary committee shall review and comment on the formulary contents.

The formulary shall not include:

(i) drugs or products for which there is no federal funding;

(ii) over-the-counter drugs, except for antacids, acetaminophen, family planning products, aspirin, insulin, products for the treatment of lice, vitamins for adults with documented vitamin deficiencies, vitamins for children under the age of seven and pregnant or nursing women, and any other over-the-counter drug identified by the commissioner, in consultation with the drug formulary committee, as necessary, appropriate, and cost-effective for the treatment of certain specified chronic diseases, conditions or disorders, and this determination shall not be subject to the requirements of chapter 14;

(iii) anorectics, except that medically necessary anorectics shall be covered for a recipient previously diagnosed as having pickwickian syndrome and currently diagnosed as having diabetes and being morbidly obese;

(iv) drugs for which medical value has not been established; and

(v) drugs from manufacturers who have not signed a rebate agreement with the Department of Health and Human Services pursuant to section 1927 of title XIX of the Social Security Act.

The commissioner shall publish conditions for prohibiting payment for specific drugs after considering the formulary committee's recommendations. An honorarium of $100 per meeting and reimbursement for mileage shall be paid to each committee member in attendance.

(c) The basis for determining the amount of payment shall be the lower of the actual acquisition costs of the drugs plus a fixed dispensing fee; the maximum allowable cost set by the federal government or by the commissioner plus the fixed dispensing fee; or the usual and customary price charged to the public. The pharmacy dispensing fee shall be $3.65, except that the dispensing fee for intravenous solutions which must be compounded by the pharmacist shall be $8 per bag, $14 per bag for cancer chemotherapy products, and $30 per bag for total parenteral nutritional products dispensed in one liter quantities, or $44 per bag for total parenteral nutritional products dispensed in quantities greater than one liter. Actual acquisition cost includes quantity and other special discounts except time and cash discounts. The actual acquisition cost of a drug shall be estimated by the commissioner, at average wholesale price minus nine percent, except that where a drug has had its wholesale price reduced as a result of the actions of the National Association of Medicaid Fraud Control Units, the estimated actual acquisition cost shall be the reduced average wholesale price, without the nine percent deduction. The maximum allowable cost of a multisource drug may be set by the commissioner and it shall be comparable to, but no higher than, the maximum amount paid by other third-party payors in this state who have maximum allowable cost programs. The commissioner shall set maximum allowable costs for multisource drugs that are not on the federal upper limit list as described in United States Code, title 42, chapter 7, section 1396r-8(e), the Social Security Act, and Code of Federal Regulations, title 42, part 447, section 447.332. Establishment of the amount of payment for drugs shall not be subject to the requirements of the Administrative Procedure Act. An additional dispensing fee of $.30 may be added to the dispensing fee paid to pharmacists for legend drug prescriptions dispensed to residents of long-term care facilities when a unit dose blister card system, approved by the department, is used. Under this type of dispensing system, the pharmacist must dispense a 30-day supply of drug. The National Drug Code (NDC) from the drug container used to fill the blister card must be identified on the claim to the department. The unit dose blister card containing the drug must meet the packaging standards set forth in Minnesota Rules, part 6800.2700, that govern the return of unused drugs to the pharmacy for reuse. The pharmacy provider will be required to credit the department for the actual acquisition cost of all unused drugs that are eligible for reuse. Over-the-counter medications must be dispensed in the manufacturer's unopened package. The commissioner may permit the drug clozapine to be dispensed in a quantity that is less than a 30-day supply. Whenever a generically equivalent product is available, payment shall be on the basis of the actual acquisition cost of the generic drug, unless the prescriber specifically indicates "dispense as written - brand necessary" on the prescription as required by section 151.21, subdivision 2.

(d) For purposes of this subdivision, "multisource drugs" means covered outpatient drugs, excluding innovator multisource drugs for which there are two or more drug products, which:

(1) are related as therapeutically equivalent under the Food and Drug Administration's most recent publication of "Approved Drug Products with Therapeutic Equivalence Evaluations";

(2) are pharmaceutically equivalent and bioequivalent as determined by the Food and Drug Administration; and

(3) are sold or marketed in Minnesota.

"Innovator multisource drug" means a multisource drug that was originally marketed under an original new drug application approved by the Food and Drug Administration

(e) The formulary committee shall review and recommend drugs which require prior authorization. The formulary committee may recommend drugs for prior authorization directly to the commissioner, as long as opportunity for public input is provided. Prior authorization may be requested by the commissioner based on medical and clinical criteria and on cost before certain drugs are eligible for payment. Before a drug may be considered for prior authorization at the request of the commissioner:

(1) the drug formulary committee must develop criteria to be used for identifying drugs; the development of these criteria is not subject to the requirements of chapter 14, but the formulary committee shall provide opportunity for public input in developing criteria;

(2) the drug formulary committee must hold a public forum and receive public comment for an additional 15 days; ~~and~~

(3) the drug formulary committee must consider data from the state Medicaid program if such data is available; and

(4) the commissioner must provide information to the formulary committee on the impact that placing the drug on prior authorization will have on the quality of patient care and on program costs, and information regarding whether the drug is subject to clinical abuse or misuse.

Prior authorization may be required by the commissioner before certain formulary drugs are eligible for payment. If prior authorization of a drug is required by the commissioner, the commissioner must provide a 30-day notice period before implementing the prior authorization. If a prior authorization request is denied by the department, the recipient may appeal the denial in accordance with section 256.045. If an appeal is filed, the drug must be provided without prior authorization until a decision is made on the appeal.

(f) The basis for determining the amount of payment for drugs administered in an outpatient setting shall be the lower of the usual and customary cost submitted by the provider; the average wholesale price minus five percent; or the maximum allowable cost set by the federal government under United States Code, title 42, chapter 7, section 1396r-8(e), and Code of Federal Regulations, title 42, section 447.332, or by the commissioner under paragraph (c)."

Page 78, after line 17, insert:

"Sec. 42. [PRIOR AUTHORIZATION REPORT.]

The commissioner of human services shall review prior authorization of prescription drugs in the fee-for-service medical assistance program in terms of the cost effectiveness achieved through prior authorization on prescription drug costs and on other medical assistance costs and evaluate the effect that placing a drug on prior authorization has had on the quality of patient care. The commissioner shall submit the results to the chairs and ranking minority members of the senate and house of representatives committees having jurisdiction over human services funding by January 15, 2004."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Berglin then moved to amend S.F. No. 3098 as follows:

Page 34, after line 22, insert:

"Sec. 16. Minnesota Statutes 2000, section 254B.09, subdivision 2, is amended to read:

Subd. 2. [AMERICAN INDIAN AGREEMENTS.] The commissioner may enter into agreements with federally recognized tribal units to pay for chemical dependency treatment services provided under Laws 1986, chapter 394, sections 8 to 20. The agreements must ~~require~~ clarify how the governing body of the tribal unit ~~to fulfill all county~~ fulfill local agency responsibilities regarding:

(1) selection of eligible vendors under section 254B.03, subdivision 1;

(2) negotiation of agreements that establish vendor services and rates for programs located on the tribal governing body's reservation;

(3) the form and manner of invoicing~~,~~; and

(4) provide that only invoices for eligible vendors according to section 254B.05 will be included in invoices sent to the commissioner for payment, to the extent that money allocated under subdivisions ~~3,~~ 4~~,~~ and 5 is used."

Page 37, after line 23, insert:

"Sec. 19. Minnesota Statutes 2000, section 256B.02, subdivision 7, is amended to read:

Subd. 7. [VENDOR OF MEDICAL CARE.] (a) "Vendor of medical care" means any person or persons furnishing, within the scope of the vendor's respective license, any or all of the following goods or services: medical, surgical, hospital, optical, visual, dental and nursing services; drugs and medical supplies; appliances; laboratory, diagnostic, and therapeutic services; nursing home and convalescent care; screening and health assessment services provided by public health nurses as defined in section 145A.02, subdivision 18; health care services provided at the residence of the patient if the services are performed by a public health nurse and the nurse indicates in a statement submitted under oath that the services were actually provided; and such other medical services or supplies provided or prescribed by persons authorized by state law to give such services and supplies. The term includes, but is not limited to, directors and officers of corporations or members of partnerships who, either individually or jointly with another or others, have the legal control, supervision, or responsibility of submitting claims for reimbursement to the medical assistance program. The term only includes directors and officers of corporations who personally receive a portion of the distributed assets upon liquidation or dissolution, and their liability is limited to the portion of the claim that bears the same proportion to the total claim as their share of the distributed assets bears to the total distributed assets.

(b) "Vendor of medical care" also includes any person who is credentialed as a health professional under standards set by the governing body of a federally recognized Indian tribe authorized under an agreement with the federal government according to United States Code, title 25, section 450f, to provide health services to its members, and who through a tribal facility provides covered services to American Indian people within a contract health service delivery area of a Minnesota reservation, as defined under Code of Federal Regulations, title 42, section 36.22.

(c) A federally recognized Indian tribe that intends to implement standards for credentialing health professionals must submit the standards to the commissioner of human services, along with evidence of meeting, exceeding, or being exempt from corresponding state standards. The commissioner shall maintain a copy of the standards and supporting evidence, and shall use those standards to enroll tribal-approved health professionals as medical assistance providers. For purposes of this section, "Indian" and "Indian tribe" mean persons or entities that meet the definition in United States Code, title 25, section 450b."

Page 37, after line 29, insert:

"Sec. 21. Minnesota Statutes 2001 Supplement, section 256B.0644, is amended to read:

256B.0644 [PARTICIPATION REQUIRED FOR REIMBURSEMENT UNDER OTHER STATE HEALTH CARE PROGRAMS.]

A vendor of medical care, as defined in section 256B.02, subdivision 7, and a health maintenance organization, as defined in chapter 62D, must participate as a provider or contractor in the medical assistance program, general assistance medical care program, and MinnesotaCare as a condition of participating as a provider in health insurance plans and programs or contractor for state employees established under section 43A.18, the public employees insurance program under section 43A.316, for health insurance plans offered to local statutory or home rule charter city, county, and school district employees, the workers' compensation system under section 176.135, and insurance plans provided through the Minnesota comprehensive health association under sections 62E.01 to 62E.19. The limitations on insurance plans offered to local government employees shall not be applicable in geographic areas where provider participation is limited by managed care contracts with the department of human services. For providers other than health maintenance organizations, participation in the medical assistance program means that (1) the provider accepts new medical assistance, general assistance medical care, and MinnesotaCare patients or (2) for providers other than dental service providers, at least 20 percent of the provider's patients are covered by medical assistance, general assistance medical care, and MinnesotaCare as their primary source of coverage, or (3) for dental service providers, at least ten percent of the provider's patients are covered by medical assistance, general assistance medical care, and MinnesotaCare as their primary source of coverage. Patients seen on a volunteer basis by the provider at a location other than the provider's usual place of practice may be considered in meeting this participation requirement. The commissioner shall establish participation requirements for health maintenance organizations. The commissioner shall provide lists of participating medical assistance providers on a quarterly basis to the commissioner of employee relations, the commissioner of labor and industry, and the commissioner of commerce. Each of the commissioners shall develop and implement procedures to exclude as participating providers in the program or programs under their jurisdiction those providers who do not participate in the medical assistance program. The commissioner of employee relations shall implement this section through contracts with participating health and dental carriers."

Page 53, after line 17, insert:

"Sec. 32. Minnesota Statutes 2000, section 256B.32, is amended to read:

256B.32 [FACILITY FEE FOR OUTPATIENT HOSPITAL EMERGENCY ROOM AND CLINIC VISITS.]

Subdivision 1. [FACILITY FEE PAYMENT.] The commissioner shall establish a facility fee payment mechanism that will pay a facility fee to all enrolled outpatient hospitals for each emergency room or outpatient clinic visit provided on or after July 1, 1989. This payment mechanism may not result in an overall increase in outpatient payment rates. This section does not apply to federally mandated maximum payment limits, department approved program packages, or services billed using a nonoutpatient hospital provider number.

Subd. 2. [PROSPECTIVE PAYMENT SYSTEM.] Effective for services provided on or after July 1, 2003, rates that are based on the Medicare outpatient prospective payment system shall be replaced by a budget-neutral prospective payment system that is derived using medical assistance data.

Sec. 33. Minnesota Statutes 2001 Supplement, section 256B.69, subdivision 5b, is amended to read:

Subd. 5b. [PROSPECTIVE REIMBURSEMENT RATES.] (a) For prepaid medical assistance and general assistance medical care program contract rates set by the commissioner under subdivision 5 and effective on or after January 1, 1998, capitation rates for nonmetropolitan

counties shall on a weighted average be no less than 88 percent of the capitation rates for metropolitan counties, excluding Hennepin county. The commissioner shall make a pro rata adjustment in capitation rates paid to counties other than nonmetropolitan counties in order to make this provision budget neutral. The commissioner, in consultation with a health care actuary, shall evaluate the regional rate relationships based on actual health plan costs for Minnesota health care programs. The commissioner may establish, based on the actuary's recommendation, new rate regions that recognize metropolitan areas outside of the seven-county metropolitan area.

(b) For prepaid medical assistance program contract rates set by the commissioner under subdivision 5 and effective on or after January 1, 2001, capitation rates for nonmetropolitan counties shall, on a weighted average, be no less than 89 percent of the capitation rates for metropolitan counties, excluding Hennepin county.

(c) This subdivision shall not affect the nongeographically based risk adjusted rates established under section 62Q.03, subdivision 5a."

Page 67, after line 2, insert:

"Sec. 41. Minnesota Statutes 2001 Supplement, section 256B.75, is amended to read:

256B.75 [HOSPITAL OUTPATIENT REIMBURSEMENT.]

(a) For outpatient hospital facility fee payments for services rendered on or after October 1, 1992, the commissioner of human services shall pay the lower of (1) submitted charge, or (2) 32 percent above the rate in effect on June 30, 1992, except for those services for which there is a federal maximum allowable payment. Effective for services rendered on or after January 1, 2000, payment rates for nonsurgical outpatient hospital facility fees and emergency room facility fees shall be increased by eight percent over the rates in effect on December 31, 1999, except for those services for which there is a federal maximum allowable payment. Services for which there is a federal maximum allowable payment shall be paid at the lower of (1) submitted charge, or (2) the federal maximum allowable payment. Total aggregate payment for outpatient hospital facility fee services shall not exceed the Medicare upper limit. If it is determined that a provision of this section conflicts with existing or future requirements of the United States government with respect to federal financial participation in medical assistance, the federal requirements prevail. The commissioner may, in the aggregate, prospectively reduce payment rates to avoid reduced federal financial participation resulting from rates that are in excess of the Medicare upper limitations.

(b) Notwithstanding paragraph (a), payment for outpatient, emergency, and ambulatory surgery hospital facility fee services for critical access hospitals designated under section 144.1483, clause (11), shall be paid on a cost-based payment system that is based on the cost-finding methods and allowable costs of the Medicare program.

(c) Effective for services provided on or after July 1, ~~2002~~ 2003, rates that are based on the Medicare outpatient prospective payment system shall be replaced by a budget neutral prospective payment system that is derived using medical assistance data. The commissioner shall provide a proposal to the 2002 legislature to define and implement this provision."

Page 71, after line 6, insert:

"Sec. 43. [256B.84] [AMERICAN INDIAN CONTRACTING PROVISIONS.]

Notwithstanding other state laws or rules, Indian health services and agencies operated by Indian tribes are not required to have a county contract or county certification to enroll as providers of family community support services under section 256B.0625, subdivision 35; therapeutic support of foster care under section 256B.0625, subdivision 36; adult rehabilitative mental health services under section 256B.0623; and adult mental health crisis response services under section 256B.0624. In order to enroll as providers of these services, Indian health services and agencies operated by Indian tribes must meet the vendor of medical care requirements in section 256B.02, subdivision 7."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Berglin then moved to amend S.F. No. 3098 as follows:

Page 1, after line 35, insert:

"ARTICLE 1

CONTINUING CARE AND DEPARTMENT OF HUMAN SERVICES LICENSING"

Page 78, after line 21, insert:

"ARTICLE 2

HUMAN SERVICES AND CORRECTIONS

Section 1. Minnesota Statutes 2001 Supplement, section 144.122, is amended to read:

144.122 [LICENSE, PERMIT, AND SURVEY FEES.]

(a) The state commissioner of health, by rule, may prescribe reasonable procedures and fees for filing with the commissioner as prescribed by statute and for the issuance of original and renewal permits, licenses, registrations, and certifications issued under authority of the commissioner. The expiration dates of the various licenses, permits, registrations, and certifications as prescribed by the rules shall be plainly marked thereon. Fees may include application and examination fees and a penalty fee for renewal applications submitted after the expiration date of the previously issued permit, license, registration, and certification. The commissioner may also prescribe, by rule, reduced fees for permits, licenses, registrations, and certifications when the application therefor is submitted during the last three months of the permit, license, registration, or certification period. Fees proposed to be prescribed in the rules shall be first approved by the department of finance. All fees proposed to be prescribed in rules shall be reasonable. The fees shall be in an amount so that the total fees collected by the commissioner will, where practical, approximate the cost to the commissioner in administering the program. All fees collected shall be deposited in the state treasury and credited to the state government special revenue fund unless otherwise specifically appropriated by law for specific purposes.

(b) The commissioner shall adopt reasonable rules establishing criteria and procedures for refusal to grant or renew licenses and registrations, and for suspension and revocation of licenses and registrations.

(c) The commissioner may refuse to grant or renew licenses and registrations, or suspend or revoke licenses and registrations, in accordance with the commissioner's criteria and procedures as adopted by rule.

(d) The commissioner may charge a fee for voluntary certification of medical laboratories and environmental laboratories, and for environmental and medical laboratory services provided by the department, without complying with paragraph (a) or chapter 14. Fees charged for environment and medical laboratory services provided by the department must be approximately equal to the costs of providing the services.

~~(c)~~ (e) The commissioner may develop a schedule of fees for diagnostic evaluations conducted at clinics held by the services for children with handicaps program. All receipts generated by the program are annually appropriated to the commissioner for use in the maternal and child health program.

~~(d)~~ (f) The commissioner shall set license fees for hospitals and nursing homes that are not boarding care homes at the following levels:

Joint Commission on Accreditation of Healthcare

Organizations (JCAHO hospitals) $7,055

Non-JCAHO hospitals	$4,680 plus $234 per bed
Nursing home	$183 plus $91 per bed

The commissioner shall set license fees for outpatient surgical centers, boarding care homes, and supervised living facilities at the following levels:

Outpatient surgical centers	$1,512
Boarding care homes	$183 plus $91 per bed
Supervised living facilities	$183 plus $91 per bed.

~~(e)~~ (g) Unless prohibited by federal law, the commissioner of health shall charge applicants the following fees to cover the cost of any initial certification surveys required to determine a provider's eligibility to participate in the Medicare or Medicaid program:

Prospective payment surveys for hospitals	$ 900
Swing bed surveys for nursing homes	$1,200
Psychiatric hospitals	$1,400
Rural health facilities	$1,100
Portable X-ray providers	$ 500
Home health agencies	$1,800
Outpatient therapy agencies	$ 800
End stage renal dialysis providers	$2,100
Independent therapists	$ 800
Comprehensive rehabilitation outpatient facilities	$1,200
Hospice providers	$1,700
Ambulatory surgical providers	$1,800
Hospitals	$4,200
Other provider categories or additional resurveys required to complete initial certification	Actual surveyor costs: average surveyor cost x number of hours for the survey process.

These fees shall be submitted at the time of the application for federal certification and shall not be refunded. All fees collected after the date that the imposition of fees is not prohibited by federal law shall be deposited in the state treasury and credited to the state government special revenue fund.

(h) The commissioner shall charge the following fees for examinations, registrations, licenses, plan reviews, and inspections:

Plumbing examination	$ 50
Water conditioning examination	$ 50
Plumbing bond registration fee	$ 40
Water conditioning bond registration fee	$ 40
Master plumber's license	$120
Restricted plumbing contractor license	$ 90
Journeyman plumber's license	$ 55
Apprentice registration	$ 25
Water conditioning contractor license	$ 70
Water conditioning installer license	$ 35

Residential inspection fee (each visit)		$ 50
Public, commercial, and industrial inspections	Plan review fee	Inspection fee
25 or fewer drainage fixture units	$ 50	$ 300
26 to 50 drainage fixture units	$150	$ 900
51 to 150 drainage fixture units	$200	$1,200
151 to 249 drainage fixture units	$250	$1,500
250 or more drainage fixture units	$300	$1,800
Callback fee (each visit)		$ 100

Plumbing installations that require only fixture installation or replacement require a minimum of one inspection. Residence remodeling involving plumbing installations requires a minimum of two inspections. New residential plumbing installations require a minimum of three inspections. For purposes of this paragraph, residences of more than four units are considered commercial.

[EFFECTIVE DATE.] This section is effective July 1, 2003.

Sec. 2. Minnesota Statutes 2001 Supplement, section 144.148, subdivision 2, is amended to read:

Subd. 2. [PROGRAM.] (a) The commissioner of health shall award rural hospital capital improvement grants to eligible rural hospitals. Except as provided in paragraph (b), a grant shall not exceed $500,000 per hospital. Prior to the receipt of any grant, the hospital must certify to the commissioner that at least one-quarter of the grant amount, which may include in-kind services, is available for the same purposes from nonstate resources. Notwithstanding any law to the contrary, funds awarded to grantees in a grant agreement do not lapse until expended by the grantee.

(b) A grant shall not exceed $1,500,000 per eligible rural hospital that also satisfies the following criteria:

(1) is the only hospital in a county;

(2) has 25 or fewer licensed hospital beds with a net hospital operating margin not greater than an average of two percent over the three fiscal years prior to application;

(3) is located in a medically underserved community (MUC) or a health professional shortage area (HPSA);

(4) is located near a migrant worker employment site and regularly treats significant numbers of migrant workers and their families; and

(5) has not previously received a grant under this section prior to July 1, 1999.

Sec. 3. Minnesota Statutes 2000, section 241.44, is amended by adding a subdivision to read:

Subd. 5. [GRANTS.] The ombudsman may apply for and receive grants from public and private entities for purposes of carrying out the ombudsman's powers and duties under sections 241.41 to 241.45.

Sec. 4. Minnesota Statutes 2000, section 245.462, subdivision 4, is amended to read:

Subd. 4. [CASE MANAGEMENT SERVICE PROVIDER.] (a) "Case management service

provider" means a case manager or case manager associate employed by the county or other entity authorized by the county board to provide case management services specified in section 245.4711.

(b) A case manager must:

(1) be skilled in the process of identifying and assessing a wide range of client needs;

(2) be knowledgeable about local community resources and how to use those resources for the benefit of the client;

(3) have a bachelor's degree in one of the behavioral sciences or related fields including, but not limited to, social work, psychology, or nursing from an accredited college or university or meet the requirements of paragraph (c); and

(4) meet the supervision and continuing education requirements described in paragraphs (d), (e), and (f), as applicable.

(c) Case managers without a bachelor's degree must meet one of the requirements in clauses (1) to (3):

(1) have three or four years of experience as a case manager associate as defined in this section;

(2) be a registered nurse without a bachelor's degree and have a combination of specialized training in psychiatry and work experience consisting of community interaction and involvement or community discharge planning in a mental health setting totaling three years; or

(3) be a person who qualified as a case manager under the 1998 department of human service waiver provision and meet the continuing education and mentoring requirements in this section.

(d) A case manager with at least 2,000 hours of supervised experience in the delivery of services to adults with mental illness must receive regular ongoing supervision and clinical supervision totaling 38 hours per year of which at least one hour per month must be clinical supervision regarding individual service delivery with a case management supervisor. The remaining 26 hours of supervision may be provided by a case manager with two years of experience. Group supervision may not constitute more than one-half of the required supervision hours. Clinical supervision must be documented in the client record.

(e) A case manager without 2,000 hours of supervised experience in the delivery of services to adults with mental illness must:

(1) receive clinical supervision regarding individual service delivery from a mental health professional at least one hour per week until the requirement of 2,000 hours of experience is met; and

(2) complete 40 hours of training approved by the commissioner in case management skills and the characteristics and needs of adults with serious and persistent mental illness.

(f) A case manager who is not licensed, registered, or certified by a health-related licensing board must receive 30 hours of continuing education and training in mental illness and mental health services ~~annually~~ every two years.

(g) A case manager associate (CMA) must:

(1) work under the direction of a case manager or case management supervisor;

(2) be at least 21 years of age;

(3) have at least a high school diploma or its equivalent; and

(4) meet one of the following criteria:

(i) have an associate of arts degree in one of the behavioral sciences or human services;

(ii) be a registered nurse without a bachelor's degree;

(iii) within the previous ten years, have three years of life experience with serious and persistent mental illness as defined in section 245.462, subdivision 20; or as a child had severe emotional disturbance as defined in section 245.4871, subdivision 6; or have three years life experience as a primary caregiver to an adult with serious and persistent mental illness within the previous ten years;

(iv) have 6,000 hours work experience as a nondegreed state hospital technician; or

(v) be a mental health practitioner as defined in section 245.462, subdivision 17, clause (2).

Individuals meeting one of the criteria in items (i) to (iv), may qualify as a case manager after four years of supervised work experience as a case manager associate. Individuals meeting the criteria in item (v), may qualify as a case manager after three years of supervised experience as a case manager associate.

(h) A case management associate must meet the following supervision, mentoring, and continuing education requirements:

(1) have 40 hours of preservice training described under paragraph (e), clause (2);

(2) receive at least 40 hours of continuing education in mental illness and mental health services annually; and

(3) receive at least five hours of mentoring per week from a case management mentor. A "case management mentor" means a qualified, practicing case manager or case management supervisor who teaches or advises and provides intensive training and clinical supervision to one or more case manager associates. Mentoring may occur while providing direct services to consumers in the office or in the field and may be provided to individuals or groups of case manager associates. At least two mentoring hours per week must be individual and face-to-face.

(i) A case management supervisor must meet the criteria for mental health professionals, as specified in section 245.462, subdivision 18.

(j) An immigrant who does not have the qualifications specified in this subdivision may provide case management services to adult immigrants with serious and persistent mental illness who are members of the same ethnic group as the case manager if the person:

(1) is currently enrolled in and is actively pursuing credits toward the completion of a bachelor's degree in one of the behavioral sciences or a related field including, but not limited to, social work, psychology, or nursing from an accredited college or university;

(2) completes 40 hours of training as specified in this subdivision; and

(3) receives clinical supervision at least once a week until the requirements of this subdivision are met.

Sec. 5. Minnesota Statutes 2000, section 245.4871, subdivision 4, is amended to read:

Subd. 4. [CASE MANAGEMENT SERVICE PROVIDER.] (a) "Case management service provider" means a case manager or case manager associate employed by the county or other entity authorized by the county board to provide case management services specified in subdivision 3 for the child with severe emotional disturbance and the child's family.

(b) A case manager must:

(1) have experience and training in working with children;

(2) have at least a bachelor's degree in one of the behavioral sciences or a related field including, but not limited to, social work, psychology, or nursing from an accredited college or university or meet the requirements of paragraph (d);

(3) have experience and training in identifying and assessing a wide range of children's needs;

(4) be knowledgeable about local community resources and how to use those resources for the benefit of children and their families; and

(5) meet the supervision and continuing education requirements of paragraphs (e), (f), and (g), as applicable.

(c) A case manager may be a member of any professional discipline that is part of the local system of care for children established by the county board.

(d) A case manager without a bachelor's degree must meet one of the requirements in clauses (1) to (3):

(1) have three or four years of experience as a case manager associate;

(2) be a registered nurse without a bachelor's degree who has a combination of specialized training in psychiatry and work experience consisting of community interaction and involvement or community discharge planning in a mental health setting totaling three years; or

(3) be a person who qualified as a case manager under the 1998 department of human services waiver provision and meets the continuing education, supervision, and mentoring requirements in this section.

(e) A case manager with at least 2,000 hours of supervised experience in the delivery of mental health services to children must receive regular ongoing supervision and clinical supervision totaling 38 hours per year, of which at least one hour per month must be clinical supervision regarding individual service delivery with a case management supervisor. The other 26 hours of supervision may be provided by a case manager with two years of experience. Group supervision may not constitute more than one-half of the required supervision hours.

(f) A case manager without 2,000 hours of supervised experience in the delivery of mental health services to children with emotional disturbance must:

(1) begin 40 hours of training approved by the commissioner of human services in case management skills and in the characteristics and needs of children with severe emotional disturbance before beginning to provide case management services; and

(2) receive clinical supervision regarding individual service delivery from a mental health professional at least one hour each week until the requirement of 2,000 hours of experience is met.

(g) A case manager who is not licensed, registered, or certified by a health-related licensing board must receive 30 hours of continuing education and training in severe emotional disturbance and mental health services ~~annually~~ every two years.

(h) Clinical supervision must be documented in the child's record. When the case manager is not a mental health professional, the county board must provide or contract for needed clinical supervision.

(i) The county board must ensure that the case manager has the freedom to access and coordinate the services within the local system of care that are needed by the child.

(j) A case manager associate (CMA) must:

(1) work under the direction of a case manager or case management supervisor;

(2) be at least 21 years of age;

(3) have at least a high school diploma or its equivalent; and

(4) meet one of the following criteria:

(i) have an associate of arts degree in one of the behavioral sciences or human services;

(ii) be a registered nurse without a bachelor's degree;

(iii) have three years of life experience as a primary caregiver to a child with serious emotional disturbance as defined in section 245.4871, subdivision 6, within the previous ten years;

(iv) have 6,000 hours work experience as a nondegreed state hospital technician; or

(v) be a mental health practitioner as defined in subdivision 26, clause (2).

Individuals meeting one of the criteria in items (i) to (iv) may qualify as a case manager after four years of supervised work experience as a case manager associate. Individuals meeting the criteria in item (v) may qualify as a case manager after three years of supervised experience as a case manager associate.

(k) Case manager associates must meet the following supervision, mentoring, and continuing education requirements;

(1) have 40 hours of preservice training described under paragraph (f), clause (1);

(2) receive at least 40 hours of continuing education in severe emotional disturbance and mental health service annually; and

(3) receive at least five hours of mentoring per week from a case management mentor. A "case management mentor" means a qualified, practicing case manager or case management supervisor who teaches or advises and provides intensive training and clinical supervision to one or more case manager associates. Mentoring may occur while providing direct services to consumers in the office or in the field and may be provided to individuals or groups of case manager associates. At least two mentoring hours per week must be individual and face-to-face.

(l) A case management supervisor must meet the criteria for a mental health professional as specified in section 245.4871, subdivision 27.

(m) An immigrant who does not have the qualifications specified in this subdivision may provide case management services to child immigrants with severe emotional disturbance of the same ethnic group as the immigrant if the person:

(1) is currently enrolled in and is actively pursuing credits toward the completion of a bachelor's degree in one of the behavioral sciences or related fields at an accredited college or university;

(2) completes 40 hours of training as specified in this subdivision; and

(3) receives clinical supervision at least once a week until the requirements of obtaining a bachelor's degree and 2,000 hours of supervised experience are met.

Sec. 6. Minnesota Statutes 2000, section 245.50, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For purposes of this section, the following terms have the meanings given them.

(a) "Bordering state" means Iowa, North Dakota, South Dakota, or Wisconsin.

(b) "Receiving agency ~~or facility~~" means a public or private hospital, mental health center, or other person or organization ~~authorized by a state to provide~~ which provides mental health services under this section to individuals from a state other than the state in which the agency is located.

(c) "Receiving state" means the state in which a receiving agency is located.

(d) "Sending agency" means a state or county agency which sends an individual to a bordering state for treatment under this section.

(e) "Sending state" means the state in which the sending agency is located.

Sec. 7. Minnesota Statutes 2000, section 245.50, subdivision 2, is amended to read:

Subd. 2. [PURPOSE AND AUTHORITY.] (a) The purpose of this section is to enable appropriate treatment to be provided to individuals, across state lines from the individual's state of residence, in qualified facilities that are closer to the homes of individuals than are facilities available in the individual's home state.

(b) Unless prohibited by another law and subject to the exceptions listed in subdivision 3, a county board or the commissioner of human services may contract with an agency or facility in a bordering state for mental health services for residents of Minnesota, and a Minnesota mental health agency or facility may contract to provide services to residents of bordering states. Except as provided in subdivision 5, a person who receives services in another state under this section is subject to the laws of the state in which services are provided. A person who will receive services in another state under this section must be informed of the consequences of receiving services in another state, including the implications of the differences in state laws, to the extent the individual will be subject to the laws of the receiving state.

Sec. 8. Minnesota Statutes 2000, section 245.50, subdivision 5, is amended to read:

Subd. 5. [SPECIAL CONTRACTS; ~~WISCONSIN~~ BORDERING STATES.] ~~The commissioner of the Minnesota department of human services must enter into negotiations with appropriate personnel at the Wisconsin department of health and social services and must develop an agreement that conforms to the requirements of subdivision 4, to enable the placement in Minnesota of patients who are on emergency holds or who have been involuntarily committed as mentally ill or chemically dependent in Wisconsin and to enable the temporary placement in Wisconsin of patients who are on emergency holds in Minnesota under section 253B.05, provided that the Minnesota courts retain jurisdiction over Minnesota patients, and the state of Wisconsin affords to Minnesota patients the rights under Minnesota law. Persons committed by the Wisconsin courts and placed in Minnesota facilities shall continue to be in the legal custody of Wisconsin and Wisconsin's laws governing length of commitment, reexaminations, and extension of commitment shall continue to apply to these residents. In all other respects, Wisconsin residents placed in Minnesota facilities are subject to Minnesota laws. The agreement must specify that responsibility for payment for the cost of care of Wisconsin residents shall remain with the state of Wisconsin and the cost of care of Minnesota residents shall remain with the state of Minnesota. The commissioner shall be assisted by attorneys from the Minnesota attorney general's office in negotiating and finalizing this agreement. The agreement shall be completed so as to permit placement of Wisconsin residents in Minnesota facilities and Minnesota residents in Wisconsin facilities beginning July 1, 1994.~~ (a) An individual who is detained, committed, or placed on an involuntary basis under chapter 253B may be confined or treated in a bordering state pursuant to a contract under this section. An individual who is detained, committed, or placed on an involuntary basis under the civil law of a bordering state may be confined or treated in Minnesota pursuant to a contract under this section. A peace or health officer who is acting under the authority of the sending state may transport an individual to a receiving agency that provides services pursuant to a contract under this section, and may transport the individual back to the sending state under the laws of the sending state. Court orders valid under the law of the sending state are granted recognition and reciprocity in the receiving state for individuals covered by a contract under this section to the extent that the court orders relate to confinement for treatment or care of mental illness. Such treatment or care may address other conditions that may be co-occurring with the mental illness. These court orders are not subject to legal challenge in the courts of the receiving state. Individuals who are detained, committed, or placed under the law of a sending state and who are transferred to a receiving state under this section continue to be in the legal custody of the authority responsible for them under the law of the sending state. Except in emergencies, those individuals may not be transferred, removed, or furloughed from a receiving agency without the specific approval of the authority responsible for them under the law of the sending state.

(b) While in the receiving state pursuant to a contract under this section, an individual shall be subject to the sending state's laws and rules relating to length of confinement, reexaminations, and extensions of confinement. No individual may be sent to another state pursuant to a contract under this section until the receiving state has enacted a law recognizing the validity and applicability of this section.

(c) If an individual receiving services pursuant to a contract under this section leaves the receiving agency without permission and the individual is subject to involuntary confinement under the law of the sending state, the receiving agency shall use all reasonable means to return the individual to the receiving agency. The receiving agency shall immediately report the absence to the sending agency. The receiving state has the primary responsibility for, and the authority to direct, the return of these individuals within its borders and is liable for the cost of the action to the extent that it would be liable for costs of its own resident.

(d) Responsibility for payment for the cost of care remains with the sending agency.

(e) This subdivision also applies to county contracts under subdivision 2 which include emergency care and treatment provided to a county resident in a bordering state.

Sec. 9. Minnesota Statutes 2001 Supplement, section 256B.0627, subdivision 10, is amended to read:

Subd. 10. [FISCAL INTERMEDIARY OPTION AVAILABLE FOR PERSONAL CARE ASSISTANT SERVICES.] (a) The commissioner may allow a recipient of personal care assistant services to use a fiscal intermediary to assist the recipient in paying and accounting for medically necessary covered personal care assistant services authorized in subdivision 4 and within the payment parameters of subdivision 5. Unless otherwise provided in this subdivision, all other statutory and regulatory provisions relating to personal care assistant services apply to a recipient using the fiscal intermediary option.

(b) The recipient or responsible party shall:

(1) recruit, hire, and terminate a qualified professional, if a qualified professional is requested by the recipient or responsible party;

(2) verify and document the credentials of the qualified professional, if a qualified professional is requested by the recipient or responsible party;

(3) develop a service plan based on physician orders and public health nurse assessment with the assistance of a qualified professional, if a qualified professional is requested by the recipient or responsible party, that addresses the health and safety of the recipient;

(4) recruit, hire, and terminate the personal care assistant;

(5) orient and train the personal care assistant with assistance as needed from the qualified professional;

(6) supervise and evaluate the personal care assistant with assistance as needed from the recipient's physician or the qualified professional;

(7) monitor and verify in writing and report to the fiscal intermediary the number of hours worked by the personal care assistant and the qualified professional; and

(8) enter into a written agreement, as specified in paragraph (f).

(c) The duties of the fiscal intermediary shall be to:

(1) bill the medical assistance program for personal care assistant and qualified professional services;

(2) request and secure background checks on personal care assistants and qualified professionals according to section 245A.04;

(3) pay the personal care assistant and qualified professional based on actual hours of services provided;

(4) withhold and pay all applicable federal and state taxes;

(5) verify and keep records of hours worked by the personal care assistant and qualified professional;

(6) make the arrangements and pay unemployment insurance, taxes, workers' compensation, liability insurance, and other benefits, if any;

(7) enroll in the medical assistance program as a fiscal intermediary; and

(8) enter into a written agreement as specified in paragraph (f) before services are provided.

(d) The fiscal intermediary:

(1) may not be related to the recipient, qualified professional, or the personal care assistant;

(2) must ensure arm's length transactions with the recipient and personal care assistant; and

(3) shall be considered a joint employer of the personal care assistant and qualified professional to the extent specified in this section.

The fiscal intermediary or owners of the entity that provides fiscal intermediary services under this subdivision must pass a criminal background check as required in section 256B.0627, subdivision 1, paragraph (e).

(e) If the recipient or responsible party requests a qualified professional, the qualified professional providing assistance to the recipient shall meet the qualifications specified in section 256B.0625, subdivision 19c. The qualified professional shall assist the recipient in developing and revising a plan to meet the recipient's needs, as assessed by the public health nurse. In performing this function, the qualified professional must visit the recipient in the recipient's home at least once annually. The qualified professional must report any suspected abuse, neglect, or financial exploitation of the recipient to the appropriate authorities.

(f) The fiscal intermediary, recipient or responsible party, personal care assistant, and qualified professional shall enter into a written agreement before services are started. The agreement shall include:

(1) the duties of the recipient, qualified professional, personal care assistant, and fiscal agent based on paragraphs (a) to (e);

(2) the salary and benefits for the personal care assistant and the qualified professional;

(3) the administrative fee of the fiscal intermediary and services paid for with that fee, including background check fees;

(4) procedures to respond to billing or payment complaints; and

(5) procedures for hiring and terminating the personal care assistant and the qualified professional.

(g) The rates paid for personal care assistant services, shared care services, qualified professional services, and fiscal intermediary services under this subdivision shall be the same rates paid for personal care assistant services and qualified professional services under subdivision 2 respectively. Except for the administrative fee of the fiscal intermediary specified in paragraph (f), the remainder of the rates paid to the fiscal intermediary must be used to pay for the salary and benefits for the personal care assistant or the qualified professional.

(h) As part of the assessment defined in subdivision 1, the following conditions must be met to use or continue use of a fiscal intermediary:

(1) the recipient must be able to direct the recipient's own care, or the responsible party for the recipient must be readily available to direct the care of the personal care assistant;

(2) the recipient or responsible party must be knowledgeable of the health care needs of the recipient and be able to effectively communicate those needs;

(3) a face-to-face assessment must be conducted by the local county public health nurse at least annually, or when there is a significant change in the recipient's condition or change in the need for personal care assistant services;

(4) ~~the recipient cannot select the shared services option~~ recipients who choose to use the shared care option as specified in subdivision 8 must utilize the same fiscal intermediary; and

(5) parties must be in compliance with the written agreement specified in paragraph (f).

(i) The commissioner shall deny, revoke, or suspend the authorization to use the fiscal intermediary option if:

(1) it has been determined by the qualified professional or local county public health nurse that the use of this option jeopardizes the recipient's health and safety;

(2) the parties have failed to comply with the written agreement specified in paragraph (f); or

(3) the use of the option has led to abusive or fraudulent billing for personal care assistant services.

The recipient or responsible party may appeal the commissioner's action according to section 256.045. The denial, revocation, or suspension to use the fiscal intermediary option shall not affect the recipient's authorized level of personal care assistant services as determined in subdivision 5.

Sec. 10. Minnesota Statutes 2001 Supplement, section 256B.0911, subdivision 4b, is amended to read:

Subd. 4b. [EXEMPTIONS AND EMERGENCY ADMISSIONS.] (a) Exemptions from the federal screening requirements outlined in subdivision 4a, paragraphs (b) and (c), are limited to:

(1) a person who, having entered an acute care facility from a certified nursing facility, is returning to a certified nursing facility; ~~and~~

(2) a person transferring from one certified nursing facility in Minnesota to another certified nursing facility in Minnesota; and

(3) a person, 21 years of age or older, who satisfies the following criteria, as specified in the Code of Federal Regulations, title 42, section 483.106(b)(2):

(i) the person is admitted to a nursing facility directly from a hospital after receiving acute inpatient care at the hospital;

(ii) the person requires nursing facility services for the same condition for which care was provided in the hospital; and

(iii) the attending physician has certified before the nursing facility admission that the person is likely to receive less than 30 days of nursing facility services.

(b) Persons who are exempt from preadmission screening for purposes of level of care determination include:

(1) persons described in paragraph (a);

(2) an individual who has a contractual right to have nursing facility care paid for indefinitely by the veterans' administration;

(3) an individual enrolled in a demonstration project under section 256B.69, subdivision 8, at the time of application to a nursing facility;

(4) an individual currently being served under the alternative care program or under a home and community-based services waiver authorized under section 1915(c) of the federal Social Security Act; and

(5) individuals admitted to a certified nursing facility for a short-term stay, which is expected to be 14 days or less in duration based upon a physician's certification, and who have been assessed and approved for nursing facility admission within the previous six months. This exemption applies only if the consultation team member determines at the time of the initial assessment of the six-month period that it is appropriate to use the nursing facility for short-term stays and that there is an adequate plan of care for return to the home or community-based setting. If a stay exceeds 14 days, the individual must be referred no later than the first county working day following the 14th resident day for a screening, which must be completed within five working days of the referral. The payment limitations in subdivision 7 apply to an individual found at screening to not meet the level of care criteria for admission to a certified nursing facility.

(c) Persons admitted to a Medicaid-certified nursing facility from the community on an emergency basis as described in paragraph (d) or from an acute care facility on a nonworking day must be screened the first working day after admission.

(d) Emergency admission to a nursing facility prior to screening is permitted when all of the following conditions are met:

(1) a person is admitted from the community to a certified nursing or certified boarding care facility during county nonworking hours;

(2) a physician has determined that delaying admission until preadmission screening is completed would adversely affect the person's health and safety;

(3) there is a recent precipitating event that precludes the client from living safely in the community, such as sustaining an injury, sudden onset of acute illness, or a caregiver's inability to continue to provide care;

(4) the attending physician has authorized the emergency placement and has documented the reason that the emergency placement is recommended; and

(5) the county is contacted on the first working day following the emergency admission.

Transfer of a patient from an acute care hospital to a nursing facility is not considered an emergency except for a person who has received hospital services in the following situations: hospital admission for observation, care in an emergency room without hospital admission, or following hospital 24-hour bed care.

(e) A nursing facility must provide a written notice to persons who satisfy the criteria in paragraph (a), clause (3), regarding the person's right to request and receive long-term care consultation services as defined in subdivision 1a. The notice must be provided prior to the person's discharge from the facility and in a format specified by the commissioner.

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

Sec. 11. Minnesota Statutes 2001 Supplement, section 256B.0911, subdivision 4d, is amended to read:

Subd. 4d. [PREADMISSION SCREENING OF INDIVIDUALS UNDER 65 YEARS OF AGE.] (a) It is the policy of the state of Minnesota to ensure that individuals with disabilities or chronic illness are served in the most integrated setting appropriate to their needs and have the necessary information to make informed choices about home and community-based service options.

(b) Individuals under 65 years of age who are admitted to a nursing facility from a hospital must be screened prior to admission as outlined in subdivisions 4a through 4c.

(c) Individuals under 65 years of age who are admitted to nursing facilities with only a telephone screening must receive a face-to-face assessment from the long-term care consultation team member of the county in which the facility is located or from the recipient's county case manager within 20 working days of admission.

(d) Individuals under 65 years of age who are admitted to a nursing facility without preadmission screening according to the exemption described in subdivision 4b, paragraph (a), clause (3), and who remain in the facility longer than 30 days must receive a face-to-face assessment within 40 days of admission.

~~(d)~~ (e) At the face-to-face assessment, the long-term care consultation team member or county case manager must perform the activities required under subdivision 3b.

~~(e)~~ (f) For individuals under 21 years of age, a screening interview which recommends nursing facility admission must be face-to-face and approved by the commissioner before the individual is admitted to the nursing facility.

~~(f)~~ (g) In the event that an individual under 65 years of age is admitted to a nursing facility on an emergency basis, the county must be notified of the admission on the next working day, and a face-to-face assessment as described in paragraph (c) must be conducted within 20 working days of admission.

~~(g)~~ (h) At the face-to-face assessment, the long-term care consultation team member or the case manager must present information about home and community-based options so the individual can make informed choices. If the individual chooses home and community-based services, the long-term care consultation team member or case manager must complete a written relocation plan within 20 working days of the visit. The plan shall describe the services needed to move out of the facility and a time line for the move which is designed to ensure a smooth transition to the individual's home and community.

~~(h)~~ (i) An individual under 65 years of age residing in a nursing facility shall receive a face-to-face assessment at least every 12 months to review the person's service choices and available alternatives unless the individual indicates, in writing, that annual visits are not desired. In this case, the individual must receive a face-to-face assessment at least once every 36 months for the same purposes.

~~(i)~~ (j) Notwithstanding the provisions of subdivision 6, the commissioner may pay county agencies directly for face-to-face assessments for individuals under 65 years of age who are being considered for placement or residing in a nursing facility.

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

Sec. 12. Minnesota Statutes 2001 Supplement, section 256B.0913, subdivision 5, is amended to read:

Subd. 5. [SERVICES COVERED UNDER ALTERNATIVE CARE.] (a) Alternative care funding may be used for payment of costs of:

(1) adult foster care;

(2) adult day care;

(3) home health aide;

(4) homemaker services;

(5) personal care;

(6) case management;

(7) respite care;

(8) assisted living;

(9) residential care services;

(10) care-related supplies and equipment;

(11) meals delivered to the home;

(12) transportation;

(13) skilled nursing;

(14) chore services;

(15) companion services;

(16) nutrition services;

(17) training for direct informal caregivers;

(18) telemedicine devices to monitor recipients in their own homes as an alternative to hospital care, nursing home care, or home visits;

(19) other services which includes discretionary funds and direct cash payments to clients, following approval by the commissioner, subject to the provisions of paragraph (j). Total annual payments for "other services" for all clients within a county may not exceed ~~either ten~~ 25 percent of that county's annual alternative care program base allocation ~~or $5,000, whichever is greater. In no case shall this amount exceed the county's total annual alternative care program base allocation~~; and

(20) environmental modifications.

(b) The county agency must ensure that the funds are not used to supplant services available through other public assistance or services programs.

(c) Unless specified in statute, the service definitions and standards for alternative care services shall be the same as the service definitions and standards specified in the federally approved elderly waiver plan. Except for the county agencies' approval of direct cash payments to clients as described in paragraph (j) or for a provider of supplies and equipment when the monthly cost of the supplies and equipment is less than $250, persons or agencies must be employed by or under a contract with the county agency or the public health nursing agency of the local board of health in order to receive funding under the alternative care program. Supplies and equipment may be purchased from a vendor not certified to participate in the Medicaid program if the cost for the item is less than that of a Medicaid vendor.

(d) The adult foster care rate shall be considered a difficulty of care payment and shall not include room and board. The adult foster care rate shall be negotiated between the county agency and the foster care provider. The alternative care payment for the foster care service in combination with the payment for other alternative care services, including case management, must not exceed the limit specified in subdivision 4, paragraph (a), clause (6).

(e) Personal care services must meet the service standards defined in the federally approved elderly waiver plan, except that a county agency may contract with a client's relative who meets the relative hardship waiver requirement as defined in section 256B.0627, subdivision 4, paragraph (b), clause (10), to provide personal care services if the county agency ensures supervision of this service by a registered nurse or mental health practitioner.

(f) For purposes of this section, residential care services are services which are provided to individuals living in residential care homes. Residential care homes are currently licensed as board and lodging establishments and are registered with the department of health as providing special services under section 157.17 and are not subject to registration under chapter 144D. Residential care services are defined as "supportive services" and "health-related services." "Supportive

services" means the provision of up to 24-hour supervision and oversight. Supportive services includes: (1) transportation, when provided by the residential care home only; (2) socialization, when socialization is part of the plan of care, has specific goals and outcomes established, and is not diversional or recreational in nature; (3) assisting clients in setting up meetings and appointments; (4) assisting clients in setting up medical and social services; (5) providing assistance with personal laundry, such as carrying the client's laundry to the laundry room. Assistance with personal laundry does not include any laundry, such as bed linen, that is included in the room and board rate. "Health-related services" are limited to minimal assistance with dressing, grooming, and bathing and providing reminders to residents to take medications that are self-administered or providing storage for medications, if requested. Individuals receiving residential care services cannot receive homemaking services funded under this section.

(g) For the purposes of this section, "assisted living" refers to supportive services provided by a single vendor to clients who reside in the same apartment building of three or more units which are not subject to registration under chapter 144D and are licensed by the department of health as a class A home care provider or a class E home care provider. Assisted living services are defined as up to 24-hour supervision, and oversight, supportive services as defined in clause (1), individualized home care aide tasks as defined in clause (2), and individualized home management tasks as defined in clause (3) provided to residents of a residential center living in their units or apartments with a full kitchen and bathroom. A full kitchen includes a stove, oven, refrigerator, food preparation counter space, and a kitchen utensil storage compartment. Assisted living services must be provided by the management of the residential center or by providers under contract with the management or with the county.

(1) Supportive services include:

(i) socialization, when socialization is part of the plan of care, has specific goals and outcomes established, and is not diversional or recreational in nature;

(ii) assisting clients in setting up meetings and appointments; and

(iii) providing transportation, when provided by the residential center only.

(2) Home care aide tasks means:

(i) preparing modified diets, such as diabetic or low sodium diets;

(ii) reminding residents to take regularly scheduled medications or to perform exercises;

(iii) household chores in the presence of technically sophisticated medical equipment or episodes of acute illness or infectious disease;

(iv) household chores when the resident's care requires the prevention of exposure to infectious disease or containment of infectious disease; and

(v) assisting with dressing, oral hygiene, hair care, grooming, and bathing, if the resident is ambulatory, and if the resident has no serious acute illness or infectious disease. Oral hygiene means care of teeth, gums, and oral prosthetic devices.

(3) Home management tasks means:

(i) housekeeping;

(ii) laundry;

(iii) preparation of regular snacks and meals; and

(iv) shopping.

Individuals receiving assisted living services shall not receive both assisted living services and homemaking services. Individualized means services are chosen and designed specifically for each resident's needs, rather than provided or offered to all residents regardless of their illnesses,

disabilities, or physical conditions. Assisted living services as defined in this section shall not be authorized in boarding and lodging establishments licensed according to sections 157.011 and 157.15 to 157.22.

(h) For establishments registered under chapter 144D, assisted living services under this section means either the services described in paragraph (g) and delivered by a class E home care provider licensed by the department of health or the services described under section 144A.4605 and delivered by an assisted living home care provider or a class A home care provider licensed by the commissioner of health.

(i) Payment for assisted living services and residential care services shall be a monthly rate negotiated and authorized by the county agency based on an individualized service plan for each resident and may not cover direct rent or food costs.

(1) The individualized monthly negotiated payment for assisted living services as described in paragraph (g) or (h), and residential care services as described in paragraph (f), shall not exceed the nonfederal share in effect on July 1 of the state fiscal year for which the rate limit is being calculated of the greater of either the statewide or any of the geographic groups' weighted average monthly nursing facility payment rate of the case mix resident class to which the alternative care eligible client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059, less the maintenance needs allowance as described in section 256B.0915, subdivision 1d, paragraph (a), until the first day of the state fiscal year in which a resident assessment system, under section 256B.437, of nursing home rate determination is implemented. Effective on the first day of the state fiscal year in which a resident assessment system, under section 256B.437, of nursing home rate determination is implemented and the first day of each subsequent state fiscal year, the individualized monthly negotiated payment for the services described in this clause shall not exceed the limit described in this clause which was in effect on the last day of the previous state fiscal year and which has been adjusted by the greater of any legislatively adopted home and community-based services cost-of-living percentage increase or any legislatively adopted statewide percent rate increase for nursing facilities.

(2) The individualized monthly negotiated payment for assisted living services described under section 144A.4605 and delivered by a provider licensed by the department of health as a class A home care provider or an assisted living home care provider and provided in a building that is registered as a housing with services establishment under chapter 144D and that provides 24-hour supervision in combination with the payment for other alternative care services, including case management, must not exceed the limit specified in subdivision 4, paragraph (a), clause (6).

(j) A county agency may make payment from their alternative care program allocation for "other services" which include use of "discretionary funds" for services that are not otherwise defined in this section and direct cash payments to the client for the purpose of purchasing the services. The following provisions apply to payments under this paragraph:

(1) a cash payment to a client under this provision cannot exceed ~~80 percent of~~ the monthly payment limit for that client as specified in subdivision 4, paragraph (a), clause (6);

(2) a county may not approve any cash payment for a client who meets either of the following:

(i) has been assessed as having a dependency in orientation, unless the client has an authorized representative. An "authorized representative" means an individual who is at least 18 years of age and is designated by the person or the person's legal representative to act on the person's behalf. This individual may be a family member, guardian, representative payee, or other individual designated by the person or the person's legal representative, if any, to assist in purchasing and arranging for supports; or

(ii) is concurrently receiving adult foster care, residential care, or assisted living services;

(3) cash payments to a person or a person's family will be provided through a monthly payment and be in the form of cash, voucher, or direct county payment to a vendor. Fees or premiums assessed to the person for eligibility for health and human services are not reimbursable through

this service option. Services and goods purchased through cash payments must be identified in the person's individualized care plan and must meet all of the following criteria:

(i) they must be over and above the normal cost of caring for the person if the person did not have functional limitations;

(ii) they must be directly attributable to the person's functional limitations;

(iii) they must have the potential to be effective at meeting the goals of the program;

(iv) they must be consistent with the needs identified in the individualized service plan. The service plan shall specify the needs of the person and family, the form and amount of payment, the items and services to be reimbursed, and the arrangements for management of the individual grant; and

(v) the person, the person's family, or the legal representative shall be provided sufficient information to ensure an informed choice of alternatives. The local agency shall document this information in the person's care plan, including the type and level of expenditures to be reimbursed;

(4) the county, lead agency under contract, or tribal government under contract to administer the alternative care program shall not be liable for damages, injuries, or liabilities sustained through the purchase of direct supports or goods by the person, the person's family, or the authorized representative with funds received through the cash payments under this section. Liabilities include, but are not limited to, workers' compensation, the Federal Insurance Contributions Act (FICA), or the Federal Unemployment Tax Act (FUTA);

(5) persons receiving grants under this section shall have the following responsibilities:

(i) spend the grant money in a manner consistent with their individualized service plan with the local agency;

(ii) notify the local agency of any necessary changes in the grant expenditures;

(iii) arrange and pay for supports; and

(iv) inform the local agency of areas where they have experienced difficulty securing or maintaining supports; and

(6) the county shall report client outcomes, services, and costs under this paragraph in a manner prescribed by the commissioner.

(k) Upon implementation of direct cash payments to clients under this section, any person determined eligible for the alternative care program who chooses a cash payment approved by the county agency shall receive the cash payment under this section and not under section 256.476 unless the person was receiving a consumer support grant under section 256.476 before implementation of direct cash payments under this section.

Sec. 13. Minnesota Statutes 2001 Supplement, section 256B.0915, subdivision 3, is amended to read:

Subd. 3. [LIMITS OF CASES, RATES, PAYMENTS, AND FORECASTING.] (a) The number of medical assistance waiver recipients that a county may serve must be allocated according to the number of medical assistance waiver cases open on July 1 of each fiscal year. Additional recipients may be served with the approval of the commissioner.

(b) The monthly limit for the cost of waivered services to an individual elderly waiver client shall be the weighted average monthly nursing facility rate of the case mix resident class to which the elderly waiver client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059, less the recipient's maintenance needs allowance as described in subdivision 1d, paragraph (a), until the first day of the state fiscal year in which the resident assessment system as described in section 256B.437 for nursing home rate determination is implemented. Effective on the first day

of the state fiscal year in which the resident assessment system as described in section 256B.437 for nursing home rate determination is implemented and the first day of each subsequent state fiscal year, the monthly limit for the cost of waivered services to an individual elderly waiver client shall be the rate of the case mix resident class to which the waiver client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059, in effect on the last day of the previous state fiscal year, adjusted by the greater of any legislatively adopted home and community-based services cost-of-living percentage increase or any legislatively adopted statewide percent rate increase for nursing facilities.

(c) If extended medical supplies and equipment or environmental modifications are or will be purchased for an elderly waiver client, the costs may be prorated for up to 12 consecutive months beginning with the month of purchase. If the monthly cost of a recipient's waivered services exceeds the monthly limit established in paragraph (b), the annual cost of all waivered services shall be determined. In this event, the annual cost of all waivered services shall not exceed 12 times the monthly limit of waivered services as described in paragraph (b).

(d) For a person who is a nursing facility resident at the time of requesting a determination of eligibility for elderly waivered services, a monthly conversion limit for the cost of elderly waivered services may be requested. The monthly conversion limit for the cost of elderly waiver services shall be the resident class assigned under Minnesota Rules, parts 9549.0050 to 9549.0059, for that resident in the nursing facility where the resident currently resides until July 1 of the state fiscal year in which the resident assessment system as described in section 256B.437 for nursing home rate determination is implemented. Effective on July 1 of the state fiscal year in which the resident assessment system as described in section 256B.437 for nursing home rate determination is implemented, the monthly conversion limit for the cost of elderly waiver services shall be the per diem nursing facility rate as determined by the resident assessment system as described in section 256B.437 for that resident in the nursing facility where the resident currently resides multiplied by 365 and divided by 12, less the recipient's maintenance needs allowance as described in subdivision 1d. The initially approved conversion rate may be adjusted by the greater of any subsequent legislatively adopted home and community-based services cost-of-living percentage increase or any subsequent legislatively adopted statewide percentage rate increase for nursing facilities. The limit under this clause only applies to persons discharged from a nursing facility after a minimum 30-day stay and found eligible for waivered services on or after July 1, 1997. The following costs must be included in determining the total monthly costs for the waiver client:

(1) cost of all waivered services, including extended medical supplies and equipment and environmental modifications; and

(2) cost of skilled nursing, home health aide, and personal care services reimbursable by medical assistance.

(e) Medical assistance funding for skilled nursing services, private duty nursing, home health aide, and personal care services for waiver recipients must be approved by the case manager and included in the individual care plan.

(f) A county is not required to contract with a provider of supplies and equipment if the monthly cost of the supplies and equipment is less than $250.

(g) The adult foster care rate shall be considered a difficulty of care payment and shall not include room and board. The adult foster care service rate shall be negotiated between the county agency and the foster care provider. The elderly waiver payment for the foster care service in combination with the payment for all other elderly waiver services, including case management, must not exceed the limit specified in paragraph (b).

(h) Payment for assisted living service shall be a monthly rate negotiated and authorized by the county agency based on an individualized service plan for each resident and may not cover direct rent or food costs.

(1) The individualized monthly negotiated payment for assisted living services as described in

section 256B.0913, subdivision 5, paragraph (g) or (h), and residential care services as described in section 256B.0913, subdivision 5, paragraph (f), shall not exceed the nonfederal share, in effect on July 1 of the state fiscal year for which the rate limit is being calculated, of the greater of either the statewide or any of the geographic groups' weighted average monthly nursing facility rate of the case mix resident class to which the elderly waiver eligible client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059, less the maintenance needs allowance as described in subdivision 1d, paragraph (a), until the July 1 of the state fiscal year in which the resident assessment system as described in section 256B.437 for nursing home rate determination is implemented. Effective on July 1 of the state fiscal year in which the resident assessment system as described in section 256B.437 for nursing home rate determination is implemented and July 1 of each subsequent state fiscal year, the individualized monthly negotiated payment for the services described in this clause shall not exceed the limit described in this clause which was in effect on June 30 of the previous state fiscal year and which has been adjusted by the greater of any legislatively adopted home and community-based services cost-of-living percentage increase or any legislatively adopted statewide percent rate increase for nursing facilities.

(2) The individualized monthly negotiated payment for assisted living services described in section 144A.4605 and delivered by a provider licensed by the department of health as a class A home care provider or an assisted living home care provider and provided in a building that is registered as a housing with services establishment under chapter 144D and that provides 24-hour supervision in combination with the payment for other elderly waiver services, including case management, must not exceed the limit specified in paragraph (b).

(i) The county shall negotiate individual service rates with vendors and may authorize payment for actual costs up to the county's current approved rate. Persons or agencies must be employed by or under a contract with the county agency or the public health nursing agency of the local board of health in order to receive funding under the elderly waiver program, except as a provider of supplies and equipment when the monthly cost of the supplies and equipment is less than $250.

(j) Reimbursement for the medical assistance recipients under the approved waiver shall be made from the medical assistance account through the invoice processing procedures of the department's Medicaid Management Information System (MMIS), only with the approval of the client's case manager. The budget for the state share of the Medicaid expenditures shall be forecasted with the medical assistance budget, and shall be consistent with the approved waiver.

(k) To improve access to community services and eliminate payment disparities between the alternative care program and the elderly waiver, the commissioner shall establish statewide maximum service rate limits and eliminate county-specific service rate limits.

(1) Effective July 1, 2001, for service rate limits, except those described or defined in paragraphs (g) and (h), the rate limit for each service shall be the greater of the alternative care statewide maximum rate or the elderly waiver statewide maximum rate.

(2) Counties may negotiate individual service rates with vendors for actual costs up to the statewide maximum service rate limit.

(l) Beginning July 1, 1991, the state shall reimburse counties according to the payment schedule in section 256.025 for the county share of costs incurred under this subdivision on or after January 1, 1991, for individuals who are receiving medical assistance.

Sec. 14. Minnesota Statutes 2001 Supplement, section 256B.0924, subdivision 6, is amended to read:

Subd. 6. [PAYMENT FOR TARGETED CASE MANAGEMENT.] (a) Medical assistance and MinnesotaCare payment for targeted case management shall be made on a monthly basis. In order to receive payment for an eligible adult, the provider must document at least one contact per month and not more than two consecutive months without a face-to-face contact with the adult or the adult's legal representative, family, primary caregiver, or other relevant persons identified as necessary to the development or implementation of the goals of the personal service plan.

(b) Payment for targeted case management provided by county staff under this subdivision shall be based on the monthly rate methodology under section 256B.094, subdivision 6, paragraph (b), calculated as one combined average rate together with adult mental health case management under section 256B.0625, subdivision 20, except for calendar year 2002. In calendar year 2002, the rate for case management under this section shall be the same as the rate for adult mental health case management in effect as of December 31, 2001. Billing and payment must identify the recipient's primary population group to allow tracking of revenues.

(c) Payment for targeted case management provided by county-contracted vendors shall be based on a monthly rate negotiated by the host county. The negotiated rate must not exceed the rate charged by the vendor for the same service to other payers. If the service is provided by a team of contracted vendors, the county may negotiate a team rate with a vendor who is a member of the team. The team shall determine how to distribute the rate among its members. No reimbursement received by contracted vendors shall be returned to the county, except to reimburse the county for advance funding provided by the county to the vendor.

(d) If the service is provided by a team that includes contracted vendors and county staff, the costs for county staff participation on the team shall be included in the rate for county-provided services. In this case, the contracted vendor and the county may each receive separate payment for services provided by each entity in the same month. In order to prevent duplication of services, the county must document, in the recipient's file, the need for team targeted case management and a description of the different roles of the team members.

(e) Notwithstanding section 256B.19, subdivision 1, the nonfederal share of costs for targeted case management shall be provided by the recipient's county of responsibility, as defined in sections 256G.01 to 256G.12, from sources other than federal funds or funds used to match other federal funds.

(f) The commissioner may suspend, reduce, or terminate reimbursement to a provider that does not meet the reporting or other requirements of this section. The county of responsibility, as defined in sections 256G.01 to 256G.12, is responsible for any federal disallowances. The county may share this responsibility with its contracted vendors.

(g) The commissioner shall set aside five percent of the federal funds received under this section for use in reimbursing the state for costs of developing and implementing this section.

(h) Notwithstanding section 256.025, subdivision 2, payments to counties for targeted case management expenditures under this section shall only be made from federal earnings from services provided under this section. Payments to contracted vendors shall include both the federal earnings and the county share.

(i) Notwithstanding section 256B.041, county payments for the cost of case management services provided by county staff shall not be made to the state treasurer. For the purposes of targeted case management services provided by county staff under this section, the centralized disbursement of payments to counties under section 256B.041 consists only of federal earnings from services provided under this section.

(j) If the recipient is a resident of a nursing facility, intermediate care facility, or hospital, and the recipient's institutional care is paid by medical assistance, payment for targeted case management services under this subdivision is limited to the last 180 days of the recipient's residency in that facility and may not exceed more than six months in a calendar year.

(k) Payment for targeted case management services under this subdivision shall not duplicate payments made under other program authorities for the same purpose.

(l) Any growth in targeted case management services and cost increases under this section shall be the responsibility of the counties.

Sec. 15. Minnesota Statutes 2001 Supplement, section 256B.0951, subdivision 7, is amended to read:

Subd. 7. [WAIVER OF RULES.] If a federal waiver is approved under subdivision 8, the commissioner of health may exempt residents of intermediate care facilities for persons with mental retardation (ICFs/MR) who participate in the ~~three-year~~ alternative quality assurance ~~pilot~~ project established in section 256B.095 from the requirements of Minnesota Rules, chapter 4665~~, upon approval by the federal government of a waiver of federal certification requirements for ICFs/MR~~.

Sec. 16. Minnesota Statutes 2001 Supplement, section 256B.0951, subdivision 8, is amended to read:

Subd. 8. [FEDERAL WAIVER.] The commissioner of human services shall seek ~~federal authority to waive provisions of intermediate care facilities for persons with mental retardation (ICFs/MR) regulations to enable the demonstration and evaluation of the alternative quality assurance system for ICFs/MR under the project. The commissioner of human services shall apply for any necessary waivers as soon as practicable.~~ a federal waiver to allow intermediate care facilities for persons with mental retardation (ICFs/MR) in region 10 of Minnesota to participate in the alternative licensing system. If it is necessary for purposes of participation in this alternative licensing system for a facility to be decertified as an ICF/MR facility according to the terms of the federal waiver, when the facility seeks recertification under the provisions of ICF/MR regulations at the end of the demonstration project, it will not be considered a new ICF/MR as defined under section 252.291 provided the licensed capacity of the facility did not increase during its participation in the alternative licensing system. The provisions of sections 252.82, 252.292, and 256B.5011 to 256B.5015 will remain applicable for counties in region 10 of Minnesota and the ICFs/MR located within those counties notwithstanding a county's participation in the alternative licensing system.

Sec. 17. Minnesota Statutes 2001 Supplement, section 256B.437, subdivision 6, is amended to read:

Subd. 6. [PLANNED CLOSURE RATE ADJUSTMENT.] (a) The commissioner of human services shall calculate the amount of the planned closure rate adjustment available under subdivision 3, paragraph (b), for up to 5,140 beds according to clauses (1) to (4):

(1) the amount available is the net reduction of nursing facility beds multiplied by $2,080;

(2) the total number of beds in the nursing facility or facilities receiving the planned closure rate adjustment must be identified;

(3) capacity days are determined by multiplying the number determined under clause (2) by 365; and

(4) the planned closure rate adjustment is the amount available in clause (1), divided by capacity days determined under clause (3).

(b) A planned closure rate adjustment under this section is effective on the first day of the month following completion of closure of the facility designated for closure in the application and becomes part of the nursing facility's total operating payment rate.

(c) Applicants may use the planned closure rate adjustment to allow for a property payment for a new nursing facility or an addition to an existing nursing facility or as an operating payment rate adjustment. Applications approved under this subdivision are exempt from other requirements for moratorium exceptions under section 144A.073, subdivisions 2 and 3.

(d) Upon the request of a closing facility, the commissioner must allow the facility a closure rate adjustment as provided under section 144A.161, subdivision 10.

(e) A facility that has received a planned closure rate adjustment may reassign it to another facility that is under the same ownership at any time within three years of its effective date. The amount of the adjustment shall be computed according to paragraph (a).

(f) If the per bed dollar amount specified in paragraph (a), clause (1), is increased, the

commissioner shall recalculate planned closure rate adjustments for facilities that delicense beds under this section on or after July 1, 2001, to reflect the increase in the per bed dollar amount. The recalculated planned closure rate adjustment shall be effective from the date the per bed dollar amount is increased.

Sec. 18. Minnesota Statutes 2000, section 326.01, is amended by adding a subdivision to read:

Subd. 9a. [RESTRICTED PLUMBING CONTRACTOR.] A "restricted plumbing contractor" is any person skilled in the planning, superintending, and practical installation of plumbing who is otherwise lawfully qualified to contract for plumbing and installations and to conduct the business of plumbing, who is familiar with the laws and rules governing the business of plumbing, and who performs the plumbing trade in cities and towns with a population of fewer than 5,000 according to federal census.

[EFFECTIVE DATE.] This section is effective July 1, 2003.

Sec. 19. Minnesota Statutes 2000, section 326.37, subdivision 1, is amended to read:

Subdivision 1. [RULES.] The state commissioner of health ~~may~~ shall, by rule, prescribe minimum uniform standards ~~which shall be uniform, and which standards shall thereafter be~~ effective for all new plumbing installations, including additions, extensions, alterations, and replacements ~~connected with any water or sewage disposal system owned or operated by or for any municipality, institution, factory, office building, hotel, apartment building, or any other place of business regardless of location or the population of the city or town in which located~~. Notwithstanding the provisions of Minnesota Rules, part 4715.3130, as they apply to review of plans and specifications, the commissioner may allow plumbing construction, alteration, or extension to proceed without approval of the plans or specifications by the commissioner.

The commissioner shall administer the provisions of sections 326.37 to ~~326.45~~ 326.451 and for such purposes may employ plumbing inspectors and other assistants.

[EFFECTIVE DATE.] This section is effective July 1, 2003.

Sec. 20. Minnesota Statutes 2000, section 326.37, is amended by adding a subdivision to read:

Subd. 1a. [INSPECTION.] All new plumbing installations, including additions, extensions, alterations, and replacements, shall be inspected by the commissioner for compliance with accepted standards of construction for health, safety to life and property, and compliance with applicable codes. The department of health shall have full implementation of its inspections plan in place and operational July 1, 2005. This subdivision does not apply where a political subdivision requires, by ordinance, plumbing inspections similar to the requirements of this subdivision.

[EFFECTIVE DATE.] This section is effective July 1, 2003.

Sec. 21. Minnesota Statutes 2001 Supplement, section 326.38, is amended to read:

326.38 [LOCAL REGULATIONS.]

Any city having a system of waterworks or sewerage, or any town in which reside over 5,000 people exclusive of any statutory cities located therein, or the metropolitan airports commission, may, by ordinance, adopt local regulations providing for plumbing permits, bonds, approval of plans, and inspections of plumbing, which regulations are not in conflict with the plumbing standards on the same subject prescribed by the state commissioner of health. No city or such town shall prohibit plumbers licensed by the state commissioner of health from engaging in or working at the business, except cities and statutory cities which, prior to April 21, 1933, by ordinance required the licensing of plumbers. No city or such town shall require a license for persons performing building sewer or water service installation who have completed pipe laying training as prescribed by the state commissioner of health. Any city by ordinance may prescribe regulations, reasonable standards, and inspections and grant permits to any person, firm, or corporation engaged in the business of installing water softeners, who is not licensed as a master

plumber or journeyman plumber by the state commissioner of health, to connect water softening and water filtering equipment to private residence water distribution systems, where provision has been previously made therefor and openings left for that purpose or by use of cold water connections to a domestic water heater; where it is not necessary to rearrange, make any extension or alteration of, or addition to any pipe, fixture or plumbing connected with the water system except to connect the water softener, and provided the connections so made comply with minimum standards prescribed by the state commissioner of health.

[EFFECTIVE DATE.] This section is effective July 1, 2003.

Sec. 22. Minnesota Statutes 2000, section 326.40, subdivision 1, is amended to read:

Subdivision 1. [~~PLUMBERS MUST BE LICENSED IN CERTAIN CITIES; MASTER AND JOURNEYMAN PLUMBERS~~ MASTER, JOURNEYMAN, AND RESTRICTED PLUMBING CONTRACTORS; PLUMBING ON ONE'S OWN PREMISES; RULES FOR EXAMINATION.] ~~In any city now or hereafter having 5,000 or more population, according to the last federal census, and having a system of waterworks or sewerage, no person, firm, or corporation shall engage in or work at the business of a master plumber or journeyman plumber unless licensed to do so by the state commissioner of health.~~ No person, firm, or corporation shall engage in or work at the business of a master plumber, restricted plumbing contractor, or journeyman plumber unless licensed to do so by the state commissioner of health under sections 326.37 to 326.451. A license is not required for:

(1) persons performing building sewer or water service installation who have completed pipe laying training as prescribed by the commissioner of health; or

(2) persons selling an appliance plumbing installation service at point of sale if the installation work is performed by a plumber licensed under sections 326.37 to 326.451.

A master plumber may also work as a journeyman plumber. Anyone not so licensed may do plumbing work which complies with the provisions of the minimum standard prescribed by the state commissioner of health on premises or that part of premises owned and actually occupied by the worker as a residence, unless otherwise forbidden to do so by a local ordinance.

~~In any such city~~ No person, firm, or corporation shall engage in the business of installing plumbing nor install plumbing in connection with the dealing in and selling of plumbing material and supplies unless at all times a licensed master plumber or restricted plumbing contractor, who shall be responsible for proper installation, is in charge of the plumbing work of the person, firm, or corporation.

The department of health shall prescribe rules, not inconsistent herewith, for the examination and licensing of plumbers.

[EFFECTIVE DATE.] This section is effective July 1, 2003.

Sec. 23. [326.402] [RESTRICTED PLUMBING CONTRACTOR LICENSE.]

Subdivision 1. [LICENSURE.] The commissioner shall grant a restricted plumbing contractor license to any person who applies to the commissioner and provides evidence of having at least two years of practical plumbing experience in the plumbing trade preceding application for licensure.

Subd. 2. [USE OF LICENSE.] A restricted plumbing contractor may engage in the plumbing trade only in cities and towns with a population of fewer than 5,000 according to federal census.

Subd. 3. [APPLICATION PERIOD.] Applications for restricted plumbing contractor licenses must be submitted to the commissioner prior to January 1, 2004.

Subd. 4. [USE PERIOD FOR RESTRICTED PLUMBING CONTRACTOR LICENSE.] A restricted plumbing contractor license does not expire and remains in effect for as long as that person engages in the plumbing trade.

Subd. 5. [PROHIBITION OF TRANSFERENCE.] A restricted plumbing contractor license must not be transferred or sold to any other person.

Subd. 6. [RESTRICTED PLUMBING CONTRACTOR LICENSE RENEWAL.] The commissioner shall adopt rules for renewal of the restricted plumbing contractor license.

[EFFECTIVE DATE.] This section is effective July 1, 2003.

Sec. 24. [326.451] [INSPECTORS.]

(a) The commissioner shall set all reasonable criteria and procedures by rule for inspector certification, certification period, examinations, examination fees, certification fees, and renewal of certifications.

(b) The commissioner shall adopt reasonable rules establishing criteria and procedures for refusal to grant or renew inspector certifications, and for suspension and revocation of inspector certifications.

(c) The commissioner shall refuse to renew or grant inspector certifications, or suspend or revoke inspector certifications, in accordance with the commissioner's criteria and procedures as adopted by rule.

[EFFECTIVE DATE.] This section is effective July 1, 2003.

Sec. 25. [CASE MANAGEMENT STUDY.]

The commissioner of human services, in consultation with consumers, providers, consumer advocates, and local social service agencies, shall study case management services for persons with disabilities. The commissioner must report to the chairs and ranking minority members of the senate and the house of representatives committees having jurisdiction over human services issues by January 15, 2003, on strategies that:

(1) streamline administration;

(2) improve case management service availability across the state;

(3) enhance consumer access to needed services and supports;

(4) improve accountability and the use of performance measures;

(5) provide for consumer choice of vendor; and

(6) improve the financing of case management services.

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

Sec. 26. [REVISOR INSTRUCTION.]

The revisor of statutes shall change all references to section 326.45 to section 326.451 in Minnesota Statutes, sections 144.99, 326.44, 326.61, and 326.65.

[EFFECTIVE DATE.] This section is effective July 1, 2003.

Sec. 27. [REPEALER.]

Minnesota Statutes 2000, section 326.45, is repealed.

[EFFECTIVE DATE.] This section is effective July 1, 2003.

ARTICLE 3

TANF

Section 1. Minnesota Statutes 2001 Supplement, section 256J.425, is amended by adding a subdivision to read:

Subd. 1b. [TEMPORARY EXTENSION.] (a) A temporary extension on assistance applies to participants who are:

(i) not in sanction status in the 60th month of receiving assistance and are following the work search and other requirements in their plan; and

(ii) have not obtained sufficient employment that results in a wage that is equal to or exceeds 120 percent of the federal poverty guidelines for a family of the same size.

(b) All notices and information provided to participants under this chapter related to the 60-month time limit must include an explanation of the extension of the 60-month time limit under paragraph (a).

(c) This subdivision expires on June 30, 2004.

Sec. 2. Minnesota Statutes 2001 Supplement, section 256J.425, subdivision 3, is amended to read:

Subd. 3. [HARD-TO-EMPLOY PARTICIPANTS.] An assistance unit subject to the time limit in section 256J.42, subdivision 1, in which any participant has received 60 counted months of assistance, is eligible to receive months of assistance under a hardship extension if the participant belongs to any of the following groups:

(1) a person who is diagnosed by a licensed physician, psychological practitioner, or other qualified professional, as mentally retarded or mentally ill, and that condition prevents the person from obtaining or retaining unsubsidized employment;

(2) a person who:

(i) has been assessed by a vocational specialist or the county agency to be unemployable for purposes of this subdivision; or

(ii) has an IQ below 80 who has been assessed by a vocational specialist or a county agency to be employable, but not at a level that makes the participant eligible for an extension under subdivision 4 or, in the case of a non-English-speaking person for whom it is not possible to provide a determination due to language barriers or absence of culturally appropriate assessment tools, is determined by a qualified professional to have an IQ below 80. A person is considered employable if positions of employment in the local labor market exist, regardless of the current availability of openings for those positions, that the person is capable of performing; ~~or~~

(3) a person who is determined by the county agency to be learning disabled or, in the case of a non-English-speaking person for whom it is not possible to provide a medical diagnosis due to language barriers or absence of culturally appropriate assessment tools, is determined by a qualified professional to have a learning disability. If a rehabilitation plan for the person is developed or approved by the county agency, the plan must be incorporated into the employment plan. However, a rehabilitation plan does not replace the requirement to develop and comply with an employment plan under section 256J.52. For purposes of this section, "learning disabled" means the applicant or recipient has a disorder in one or more of the psychological processes involved in perceiving, understanding, or using concepts through verbal language or nonverbal means. The disability must severely limit the applicant or recipient in obtaining, performing, or maintaining suitable employment. Learning disabled does not include learning problems that are primarily the result of visual, hearing, or motor handicaps; mental retardation; emotional disturbance; or due to environmental, cultural, or economic disadvantage~~.~~; or

(4) a person who is a victim of family violence as defined in section 256J.49, subdivision 2, and who is participating in an alternative employment plan under section 256J.49, subdivision 1a.

Sec. 3. Minnesota Statutes 2001 Supplement, section 256J.425, subdivision 4, is amended to read:

Subd. 4. [EMPLOYED PARTICIPANTS.] (a) An assistance unit subject to the time limit

under section 256J.42, subdivision 1, in which any participant has received 60 months of assistance, is eligible to receive assistance under a hardship extension if the participant belongs to:

(1) a one-parent assistance unit in which the participant is participating in work activities for at least 30 hours per week, of which an average of at least 25 hours per week every month are spent participating in employment; ~~or~~

(2) a two-parent assistance unit in which the participants are participating in work activities for at least 55 hours per week, of which an average of at least 45 hours per week every month are spent participating in employment~~.~~; or

(3) an assistance unit in which a participant is participating in employment for fewer hours than those specified in clause (1), provided the participant submits verification from a health care provider, in a form acceptable to the commissioner, stating that the number of hours the participant may work is limited due to illness or disability, as long as the participant is participating in employment for at least the number of hours specified by the health care provider. The participant must be following the treatment recommendations of the health care provider providing the verification. The commissioner shall develop a form to be completed and signed by the health care provider, documenting the diagnosis and any additional information necessary to document the functional limitations of the participant that limit work hours. If the participant is part of a two-parent assistance unit, the other parent must be treated as a one-parent assistance unit for purposes of meeting the work requirements under this subdivision.

For purposes of this section, employment means:

(1) unsubsidized employment under section 256J.49, subdivision 13, clause (1);

(2) subsidized employment under section 256J.49, subdivision 13, clause (2);

(3) on-the-job training under section 256J.49, subdivision 13, clause (4);

(4) an apprenticeship under section 256J.49, subdivision 13, clause (19);

(5) supported work. For purposes of this section, "supported work" means services supporting a participant on the job which include, but are not limited to, supervision, job coaching, and subsidized wages;

(6) a combination of (1) to (5); or

(7) child care under section 256J.49, subdivision 13, clause (25), if it is in combination with paid employment.

(b) If a participant is complying with a child protection plan under chapter 260C, the number of hours required under the child protection plan count toward the number of hours required under this subdivision.

(c) The county shall provide the opportunity for subsidized employment to participants needing that type of employment within available appropriations.

(d) To be eligible for a hardship extension for employed participants under this subdivision, a participant in a one-parent assistance unit or both parents in a two-parent assistance unit must be in compliance for at least ten out of the 12 months immediately preceding the participant's 61st month on assistance. If only one parent in a two-parent assistance unit fails to be in compliance ten out of the 12 months immediately preceding the participant's 61st month, the county shall give the assistance unit the option of disqualifying the noncompliant parent. If the noncompliant participant is disqualified, the assistance unit must be treated as a one-parent assistance unit for the purposes of meeting the work requirements under this subdivision and the assistance unit's MFIP grant shall be calculated using the shared household standard under section 256J.08, subdivision 82a.

(e) The employment plan developed under section 256J.52, subdivision 5, for participants under this subdivision must contain the number of hours specified in paragraph (a) related to

employment and work activities. The job counselor and the participant must sign the employment plan to indicate agreement between the job counselor and the participant on the contents of the plan.

(f) Participants who fail to meet the requirements in paragraph (a), without good cause under section 256J.57, shall be sanctioned or permanently disqualified under subdivision 6. Good cause may only be granted for that portion of the month for which the good cause reason applies. Participants must meet all remaining requirements in the approved employment plan or be subject to sanction or permanent disqualification.

(g) If the noncompliance with an employment plan is due to the involuntary loss of employment, the participant is exempt from the hourly employment requirement under this subdivision for one month. Participants must meet all remaining requirements in the approved employment plan or be subject to sanction or permanent disqualification. This exemption is available to one-parent assistance units two times in a 12-month period, and two-parent assistance units, two times per parent in a 12-month period.

(h) This subdivision expires on June 30, 2004.

Sec. 4. Minnesota Statutes 2001 Supplement, section 256J.425, subdivision 5, is amended to read:

Subd. 5. [ACCRUAL OF CERTAIN EXEMPT MONTHS.] (a) A participant who received TANF assistance that counted towards the federal 60-month time limit while the participant was exempt under section 256J.56, paragraph (a), clause (7), from employment and training services requirements and who is no longer eligible for assistance under a hardship extension under subdivision 2, paragraph (a), clause (3), is eligible for assistance under a hardship extension for a period of time equal to the number of months that were counted toward the federal 60-month time limit while the participant was exempt under section 256J.56, paragraph (a), clause (7), from the employment and training services requirements.

(b) A participant who received TANF assistance that counted towards the federal 60-month time limit while the participant met the state time limit exemption criteria under section 256J.42, subdivision 4 or 5, is eligible for assistance under a hardship extension for a period of time equal to the number of months that were counted toward the federal 60-month time limit while the participant met the state time limit exemption criteria under section 256J.42, subdivision 5.

(c) A participant who received TANF assistance that counted towards the federal 60-month time limit while the participant was exempt under section 256J.56, paragraph (a), clause (3), from employment and training services requirements, who demonstrates at the time of the case review required under section 256J.42, subdivision 6, that the participant met the criteria for exemption from employment and training services requirements listed under section 256J.56, paragraph (a), clause (7), during one or more months the participant was exempt under section 256J.56, paragraph (a), clause (3), before or after July 1, 2000, is eligible for assistance under a hardship extension for a period of time equal to the number of months that were counted toward the federal 60-month time limit during the time the participant met the criteria of section 256J.56, paragraph (a), clause (7). At the time of the case review required under section 256J.42, subdivision 6, a county agency or job counselor must explain to the participant the basis for receiving a hardship extension based on the accrual of exempt months. The participant must document the information necessary to enable the county agency or job counselor to determine whether the participant is eligible to receive a hardship extension based on the accrual of exempt months or authorize the county agency to verify the information.

Sec. 5. Minnesota Statutes 2001 Supplement, section 256J.425, subdivision 6, is amended to read:

Subd. 6. [SANCTIONS FOR EXTENDED CASES.] (a) If one or both participants in an assistance unit receiving assistance under subdivision 1b, 3, or 4 are not in compliance with the employment and training service requirements in sections 256J.52 to 256J.55, the sanctions under this subdivision apply. For a first occurrence of noncompliance, an assistance unit must be

sanctioned under section 256J.46, subdivision 1, paragraph (d), clause (1). For a second or third occurrence of noncompliance, the assistance unit must be sanctioned under section 256J.46, subdivision 1, paragraph (d), clause (2). ~~For~~

(b) Beginning July 1, 2004, and for fourth occurrences of noncompliance that occur on or after July 1, 2004, a fourth occurrence of noncompliance~~,~~ results in the assistance unit ~~is~~ being disqualified from MFIP. If a participant is determined to be out of compliance, the participant may claim a good cause exception under section 256J.57, however, the participant may not claim an exemption under section 256J.56.

~~(b)~~ (c) If both participants in a two-parent assistance unit are out of compliance at the same time, it is considered one occurrence of noncompliance.

Sec. 6. [HEALTH AND HUMAN SERVICES WORKER PROGRAM.]

The unobliged balance for the health care and human services worker training and retention program under Minnesota Statutes, section 116L.10, as of January 1, 2002, is canceled.

Notwithstanding Laws 2000, chapter 488, article 1, section 16, paragraph (c), unexpended TANF funds appropriated for the health care and human services worker training and retention program cancel at the end of each biennium.

Sec. 7. [PATHWAYS PROGRAM.]

Temporary assistance to needy families funding for the pathways program under Laws 1999, chapter 223, article 1, section 2, subdivision 2, and Laws 2000, chapter 488, article 1, section 16, subdivision (b), is eliminated as of July 1, 2002.

Sec. 8. [FISCAL 2003 TANF MAINTENANCE OF EFFORT.]

The commissioner of human services must assure that the maintenance of effort amount used in the MFIP forecast of November 2002 and February 2003 is not less than $188,937,000 with respect to fiscal year 2003.

Sec. 9. [APPROPRIATION.]

(a) $6,095,000 is appropriated from the federal TANF fund to the commissioner of human services for the biennium ending June 30, 2003, for purposes of sections 1 to 4. Of this appropriation, $2,137,000 is for child care costs associated with sections 1 to 4. The commissioner of human services shall transfer 80 percent of the child care funds, or $1,710,000, to the federal child care and development fund block grant, and the remaining funds shall be transferred to the federal child care and development fund block grant based on a demonstrated need by the commissioner of children, families, and learning.

(b) $1,450,000 is appropriated from the federal TANF fund to the commissioner of human services for fiscal year 2003 to increase the amount of funds available for reallocation under Minnesota Statutes, section 256J.76, subdivision 4. If funds available for reallocation are insufficient to reimburse those counties that have eligible expenditures in excess of their allocations, the funds available for reallocation must be apportioned among those counties with excess expenditures in proportion to their share of the excess expenditures. These funds must become part of the fiscal year 2004-2005 base."

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Kiscaden moved to amend S.F. No. 3098 as follows:

Page 78, after line 17, insert:

"Sec. 40. [PILOT PROGRAM FOR DEAF-BLIND SERVICES.]

(a) The commissioners of human services; children, families, and learning; and state services for the blind shall meet with deaf-blind citizens, parents of deaf-blind children, and the Minnesota commission serving deaf and hard-of-hearing individuals to determine which agency can most efficiently and effectively develop and administer a pilot program for consumer-directed services to provide needed services to deaf-blind adults, children, and families.

(b) The planning for this pilot program must proceed using current appropriations. The agency that develops the pilot program described in paragraph (a) shall provide a report to the senate and house of representatives policy and fiscal committees having jurisdiction over human services issues by January 1, 2003, that addresses future funding for the program. The report shall include the program proposal, recommendations, and a fiscal note.

Sec. 41. [SERVICES FOR DEAF-BLIND PERSONS.]

(a) Effective for fiscal years beginning on or after July 1, 2003, the commissioner of human services shall combine the existing $1,000,000 biennial base level funding for deaf-blind services into a single grant program. Within the limits of the appropriation for this purpose, each biennium at least $350,000 shall be awarded for services to deaf-blind children and their families and at least $250,000 shall be awarded for services to deaf-blind adults.

(b) The commissioner may make grants:

(1) for services provided by organizations; and

(2) to develop and administer consumer-directed services.

(c) Any entity that is able to satisfy the grant criteria is eligible to receive a grant under paragraph (a).

(d) Deaf-blind service providers are not required to, but may, provide intervenor services as part of the service package provided with grant funds under this section.

Sec. 42. [FEASIBILITY ASSESSMENT OF MEDICAL ASSISTANCE EXPANSION TO COVER DEAF-BLIND SERVICES.]

(a) The commissioner of human services shall study and report to the legislature by January 15, 2003, with a feasibility assessment of the costs and policy implications, including the necessity of federal waivers, to expand benefits covered under medical assistance and under medical assistance waiver programs to include the following services for deaf-blind persons:

(1) sign language interpreters;

(2) intervenors;

(3) support service persons;

(4) orientation and mobility services; and

(5) rehabilitation teaching services.

(b) Notwithstanding Laws 2001, First Special Session chapter 9, article 17, section 10, subdivision 3, the commissioner may transfer deaf and hard-of-hearing grants to operations for purposes of paragraph (a). The study and report under paragraph (a) is exempt from the consulting contract moratorium in Laws 2002, chapter 220, article 10, section 37."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Senator Kiscaden then moved to amend the first Kiscaden amendment to S.F. No. 3098 as follows:

Page 2, line 17, after "transfer" insert "$20,000 of"

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

The question recurred on the adoption of the first Kiscaden amendment, as amended. The motion prevailed. So the amendment, as amended, was adopted.

Senator Kiscaden then moved to amend S.F. No. 3098 as follows:

Page 4, after line 35, insert:

"Sec. 4. [214.40] [VOLUNTEER HEALTH CARE PROVIDER PROGRAM.]

Subdivision 1. [DEFINITIONS.] (a) The definitions in this subdivision apply to this section.

(b) "Administrative services unit" means the administrative services unit for the health-related licensing boards.

(c) "Charitable organization" means a charitable organization within the meaning of section 501(c)(3) of the Internal Revenue Code that has as a purpose the sponsorship or support of programs designed to improve the quality, awareness, and availability of health care services and that serves as a funding mechanism for providing those services.

(d) "Health care facility or organization" means a health care facility licensed under this chapter or chapter 144A, or a charitable organization, that meets the requirements of subdivision 3.

(e) "Health care provider" means a physician licensed under chapter 147, physician assistant registered and practicing under chapter 147A, nurse licensed and registered to practice under chapter 148, or dentist or dental hygienist licensed under chapter 150A.

(f) "Health care services" means health prevention, health monitoring, health education, diagnosis, or treatment other than the administration of anesthesia, surgical procedures except for minor surgical procedures and the administration of local anesthesia for the stitching of wounds, and primary dental services, including preventive, diagnostic, restorative, or emergency treatment.

Subd. 2. [ESTABLISHMENT.] The administrative services unit shall establish a volunteer health care provider program to facilitate the provision of health care services provided by volunteer health care providers through eligible health care facilities and organizations.

Subd. 3. [PARTICIPATION OF HEALTH CARE FACILITIES.] To participate in the program established in subdivision 2, a health care facility or organization must register with the administrative services unit on forms provided by the administrative services unit and must meet the following requirements:

(1) be licensed to the extent required by law or regulation;

(2) provide evidence that the provision of health care services to the uninsured and underinsured is the primary purpose of the facility or organization;

(3) certify that it maintains adequate general liability and professional liability insurance for program staff other than the volunteer health care provider or is properly and adequately self-insured;

(4) agree to cooperate with the state in defense of the health care provider providing services through it and agree not to charge the state for its expenses, costs, and efforts in the defense of a claim or suit;

(5) agree that only the health care provider is afforded protection under section 3.736, and the state assumes no obligation to the facility or organization, its employees, officers, or agents;

(6) agree to report annually to the administrative services unit the number of volunteers, number of volunteer hours provided, number of patients seen by volunteer providers, and types of services provided; and

(7) agree to pay to the administrative services unit an annual participation fee of $50. All fees collected are deposited into the state government special revenue fund and are appropriated to the administrative services unit.

Subd. 4. [HEALTH CARE PROVIDER REGISTRATION.] (a) To be eligible for protection as an employee of the state for a claim arising from the provision of unpaid health care services through the program established in subdivision 2, a health care provider must register with the administrative services unit. Registration may be approved if the provider has submitted a certified statement on forms provided by the administrative services unit attesting that the health care provider agrees to:

(1) cooperate fully with the state in the defense of any claim or suit relating to participation in the volunteer health care provider program, including attending hearings, depositions, and trials and assisting in securing and giving evidence, responding to discovery, and obtaining the attendance of witnesses;

(2) receive no direct monetary compensation of any kind for services provided in the program;

(3) submit a sworn statement attesting that the license to practice is free of restrictions. The statement shall describe:

(i) any disciplinary action taken against the health care provider by a professional licensing authority or health care facility, including any voluntary surrender of license or other agreement involving the health care provider's license to practice or any restrictions on practice, suspension of privileges, or other sanctions; and

(ii) any malpractice suits filed against the health care provider and the outcome of any suits filed;

(4) submit any additional materials requested by the commissioner;

(5) identify the eligible program through which the health services will be provided and identify the health care facilities at which the health services will be provided; and

(6) the provider has no professional liability insurance, either personally or through another facility or employer, that covers the provision of health care services by the provider at the eligible health care facility or organization.

(b) Registration expires two years from the date the registration was approved. A health care provider may apply for renewal by filing with the administrative services unit a renewal application at least 60 days prior to the expiration of the registration.

Subd. 5. [REVOCATION OF ELIGIBILITY AND REGISTRATION.] The administrative services unit may suspend, revoke, or condition the eligibility of a health care provider for cause, including, but not limited to: the failure to comply with the agreement with the commissioner; and the imposition of disciplinary action by the licensing board that regulates the health care provider.

Subd. 6. [BOARD NOTICE OF DISCIPLINARY ACTION.] The applicable health-related licensing board shall immediately notify the administrative services unit of the initiation of a contested case against a registered health care provider or the imposition of disciplinary action, including copies of any contested case decision or settlement agreement with the health care provider.

Subd. 7. [HEALTH CARE PROVIDER; EMPLOYEE OF STATE.] A health care provider who provides health care services under the volunteer health care provider program under this section is an employee of the state for purposes of section 3.736 while providing those services, provided that:

(1) the provider registered with the administrative services unit in accordance with subdivision 4;

(2) the health care services were provided through an eligible health care facility or organization;

(3) the services were provided without compensation to the provider; and

(4) the services were otherwise provided in compliance with this section."

Page 78, after line 17, insert:

"Sec. 41. [APPROPRIATION.]

$50,000 is appropriated from the state government special revenue fund to the administrative services unit to pay for legal costs incurred by the attorney general in defending against any civil action brought against a health care provider relating to the provider's participation in the volunteer health care provider program under Minnesota Statutes, section 214.40. This appropriation is available until expended. If any of this appropriation is expended for this purpose, the health licensing board with regulatory authority over the provider who was the subject of the claim or suit may adjust the fees the board is empowered to assess. Any fee adjustment must be an amount sufficient to compensate the fund for the amount paid out. The board of medical practice may compensate the fund for the amount paid out by using money provided for in the board's partner agency agreement with the attorney general. The executive director of the health-related licensing board that administers the administrative services unit shall be considered the client for purposes of defending against any civil action brought against the provider relating to the provider's participation in the volunteer health care provider program under Minnesota Statutes, section 214.40. No health-related licensing board shall be liable for payment of any awards or settlements resulting from any such civil actions."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Kiscaden then moved to amend S.F. No. 3098 as follows:

Page 33, after line 21, insert:

"Sec. 15. [245A.151] [FIRE INSPECTION.]

When licensure under this chapter requires an inspection by a fire marshal in order to comply with the Minnesota Uniform Fire Code under section 299F.011, a local fire code inspector may conduct the inspection. If a community does not have a local fire code inspector, a local fire code inspector from another community may conduct the inspection. A local fire code inspector may recover the cost of these inspections through a fee of no more than $50 per inspection charged to the applicant or license holder."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

CALL OF THE SENATE

Senator Berglin imposed a call of the Senate for the balance of the proceedings on S.F. No. 3098. The Sergeant at Arms was instructed to bring in the absent members.

Senator Scheevel moved to amend the seventh Berglin amendment to S.F. No. 3098, adopted by the Senate March 26, 2002, as follows:

Pages 1 to 4, delete section 1

Pages 39 to 44, delete sections 18 to 24

Page 44, delete sections 26 and 27

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

Senator Berglin moved that those not voting be excused from voting. The motion prevailed.

The roll was called, and there were yeas 24 and nays 33, as follows:

Those who voted in the affirmative were:

Bachmann	Frederickson	Knutson	Oliver	Robling
Belanger	Johnson, Debbie	Larson	Olson	Scheevel
Berg	Kierlin	Lesewski	Pariseau	Schwab
Day	Kiscaden	Limmer	Reiter	Stumpf
Dille	Kleis	Neuville	Robertson	

Those who voted in the negative were:

Anderson	Fowler	Metzen	Price	Stevens
Berglin	Higgins	Moe, R.D.	Rest	Tomassoni
Betzold	Hottinger	Moua	Ring	Vickerman
Chaudhary	Kelley, S.P.	Murphy	Sabo	Wiener
Cohen	Kinkel	Orfield	Sams	Wiger
Fischbach	Krentz	Pappas	Scheid	
Foley	Marty	Pogemiller	Solon, Y.P.	

The motion did not prevail. So the amendment was not adopted.

Senator Robertson moved to amend S.F. No. 3098 as follows:

Page 1, after line 35, insert:

"Section 1. Minnesota Statutes 2001 Supplement, section 125A.515, is amended to read:

125A.515 [PLACEMENT OF ~~CHILDREN WITHOUT DISABILITIES~~ STUDENTS; APPROVAL OF EDUCATION PROGRAM.]

Subdivision 1. [APPROVAL OF EDUCATION PROGRAMS.] The commissioner shall approve education programs ~~in care and treatment facilities~~ for placement of children ~~without disabilities~~ and youth in care and treatment facilities including detention centers, before being licensed by the department of human services under Minnesota Rules, parts 9545.0905 to 9545.1125 and 9545.1400 to 9545.1480, or the department of corrections under Minnesota Rules, chapters 2925, 2930, 2935, and 2950. ~~For the purposes of this section, care and treatment facilities includes adult facilities that admit children and provide an education program specifically designed for children who are residents of the facility including chemical dependency and other substance abuse programs, shelter care facilities, hospitals, correctional facilities, mental health programs, and detention facilities.~~ Education programs in these facilities shall conform to state and federal education laws including the Individuals with Disabilities Education Act (IDEA).

Subd. 2. [DEFINITION OF CARE AND TREATMENT PLACEMENT.] Students placed in the following public or private facilities are considered to be placed for care and treatment:

(1) group foster home, department of corrections;

(2) secure juvenile detention facilities, department of corrections;

(3) juvenile residential facilities, department of corrections;

(4) temporary holdover - eight day, department of corrections;

(5) group homes, department of human services;

(6) residential academies, department of human services;

(7) transitional programs, department of human services;

(8) shelter care, department of human services and department of corrections;

(9) shelter for homeless, department of human services;

(10) adult facilities that admit persons under the age of 22; and

(11) residential treatment program.

Subd. 3. [RESPONSIBILITIES FOR PROVIDING EDUCATION.] (a) The district in which the facility is located must provide education services, including special education if eligible, to all students placed in a facility for care and treatment.

(b) For education programs operated by the department of corrections, the providing district shall be the department of corrections. For students remanded to the commissioner of corrections, the providing and resident district shall be the department of corrections.

(c) Placement for care and treatment does not automatically make a student eligible for special education. A student placed in a care and treatment facility is eligible for special education under state and federal law including the the Individuals with Disabilities Education Act under United States Code, title 20, chapter 33.

Subd. 4. [EDUCATION SERVICES REQUIRED.] (a) Education services must be provided to a student beginning within three business days after the student enters the care and treatment facility. The first four days of the student's placement may be used to screen the student for educational, social, and safety issues.

(b) If the student does not meet the eligibility criteria for special education, regular education services must be provided in accordance with a personal education plan.

(c) A personal education plan shall include current educational data, individual education goals, and an educational transition plan for transition from the facility.

Subd. 5. [EDUCATION PROGRAMS FOR STUDENTS PLACED IN FACILITIES FOR CARE AND TREATMENT.] (a) When a student is placed in a care and treatment facility that has an on-site education program, the providing district must contact the resident district within one business day to determine if a student has been identified as having a disability, and to request at least the student's transcript, and for students with disabilities, the most recent individualized education plan (IEP) and evaluation report, and to determine if the student has been identified as a student with a disability. The resident district must send a facsimile copy to the providing district within two business days of receiving the request.

(b) If a student placed for care and treatment has been identified as having a disability and has an individual education plan in the resident district:

(1) the providing agency must conduct an individualized education plan meeting to reach an agreement about continuing or modifying special education services in accordance with the current individualized education plan goals and objectives and to determine if additional evaluations are necessary;

(2) at least the following people shall receive written notice or documented phone call to be followed with written notice to attend the individualized education plan meeting:

(i) the person or agency placing the student;

(ii) the resident district;

(iii) the appropriate teachers and related services staff from the providing district;

(iv) appropriate staff from the care and treatment facility;

(v) the parents or legal guardians of the student; and

(vi) when appropriate, the student.

(c) For a student who has not been identified as a student with a disability:

(1) a screening must be conducted by the providing districts as soon as possible to determine the student's educational, social, emotional, and behavioral needs; and must include a review of the student's educational records; and

(2) based on the documented results of the screening, a decision shall be made about the need for prereferral interventions, the need for an appropriate evaluation to determine special education eligibility and whether an evaluation can be completed before the student is transferred out of the care and treatment facility. When it is determined the evaluation cannot be completed due to the anticipated length of the student's placement, the student's need for an evaluation shall be documented and communicated to the next providing district and the resident district if different when the student exits the care and treatment facility.

Subd. 6. [EXIT REPORT SUMMARIZING EDUCATIONAL PROGRESS.] If a student has been placed in a care and treatment facility for 15 or more business days, the providing district must prepare an exit report summarizing the regular education, special education, evaluation, progress on education goals, and service information and must send the report to the resident district and the next providing district if different, the parent or legal guardian, and any appropriate social service agency. For students with disabilities, this report must include the student's IEP.

Subd. 7. [MINIMUM EDUCATIONAL SERVICES REQUIRED.] At a minimum, the providing district is responsible for:

(1) the education necessary, including summer school services, for a student who is not performing at grade level as indicated in the personal education plan or IEP; and

(2) a school day, of the same length as the school day of the providing district, unless the unique needs of the student, as documented through the IEP or personal education plan in consultation with treatment providers, requires an alteration in the length of the school day.

Subd. 8. [PLACEMENT, SERVICES, AND DUE PROCESS.] When a student's treatment and educational needs allow, education shall be provided in a regular educational setting. The determination of the amount and site of integrated services must be a joint decision between the student's parents or legal guardians and the treatment and education staff. When applicable, educational placement decisions must be made by the IEP team of the providing district. Educational services shall be provided in conformance with the least restrictive environment principle of the Individuals with Disabilities Education Act. The providing district and care and treatment facility shall cooperatively develop discipline and behavior management procedures to be used in emergency situations that comply with the Minnesota Pupil Fair Dismissal Act and other relevant state and federal laws and regulations.

Subd. 9. [REIMBURSEMENT FOR EDUCATION SERVICES.] (a) Education services provided to students who have been placed for care and treatment are reimbursable in accordance with special education and general education statutes.

(b) Indirect or consultative services provided in conjunction with regular education prereferral interventions and assessment provided to regular education students suspected of being disabled and who have demonstrated learning or behavioral problems in a screening are reimbursable with special education categorical aids.

(c) Regular education, including screening, provided to students with or without disabilities is not reimbursable with special education categorical aids.

Subd. 10. [STUDENTS UNABLE TO ATTEND SCHOOL BUT NOT PLACED IN CARE AND TREATMENT FACILITIES.] Students who are absent from, or predicted to be absent from, school for 15 consecutive or intermittent days, at home or in facilities not licensed by the departments of corrections or human services are not students placed for care and treatment. These students include students with and without disabilities who are home due to accident or illness, in a hospital or other medical facility, or in a day treatment center. These students are entitled to education services through their district of residence."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

S.F. No. 3098 was read the third time, as amended, and placed on its final passage.

The question was taken on the passage of the bill, as amended.

The roll was called, and there were yeas 36 and nays 24, as follows:

Those who voted in the affirmative were:

Anderson	Johnson, Dave	Marty	Rest	Tomassoni
Berglin	Johnson, Dean	Metzen	Ring	Vickerman
Betzold	Kelley, S.P.	Moe, R.D.	Sabo	Wiener
Chaudhary	Kinkel	Moua	Sams	Wiger
Cohen	Kiscaden	Murphy	Scheid	
Foley	Krentz	Orfield	Solon, Y.P.	
Fowler	Langseth	Pogemiller	Stumpf	
Higgins	Lessard	Price	Terwilliger	

Those who voted in the negative were:

Bachmann	Frederickson	Larson	Olson	Robling
Belanger	Johnson, Debbie	Lesewski	Ourada	Scheevel
Berg	Kierlin	Limmer	Pariseau	Schwab
Dille	Kleis	Neuville	Reiter	Stevens
Fischbach	Knutson	Oliver	Robertson	

So the bill, as amended, was passed and its title was agreed to.

SPECIAL ORDER

S.F. No. 3030: A bill for an act relating to financial institutions; enacting restrictions on certain home loans; proposing coding for new law as Minnesota Statutes, chapter 58A.

Senator Pappas moved to amend S.F. No. 3030 as follows:

Page 1, line 25, after "includes" insert ", but is not limited to,"

Page 2, line 2, before the period, insert ", notwithstanding the establishment and maintenance of procedures designed to avoid any such error. An error in legal judgment with respect to a person's obligations under sections 58A.01 to 58A.08 is not a bona fide error"

Page 2, line 18, delete "14" and insert "15" and after the period, insert:

"Subd. 8. [INTEREST.] "Interest" means the interest on the loan to be paid, calculated based on the interest rate defined in subdivision 9."

Page 2, line 19, delete "8" and insert "9"

Page 2, line 27, delete "9" and insert "10"

Page 2, line 29, delete "10" and insert "11"

Page 2, line 32, delete "11" and insert "12"

Page 3, line 9, delete "12" and insert "13"

Page 3, line 13, delete "13" and insert "14"

Page 3, line 21, delete "14" and insert "15"

Page 3, line 34, delete the first "is" and insert "will be"

Page 4, line 19, before the period, insert "provided that the amount of credit extended is no greater than necessary to meet the bona fide financial emergency"

Page 6, line 13, after "that" insert "either"

Page 6, delete lines 14 to 18 and insert:

"(1) within 30 days of the loan closing and prior to receiving any notice from the borrower of the compliance failure, the borrower is notified of the compliance failure, appropriate restitution is made to the borrower, and appropriate adjustments are made to the loan; or

(2) in the case of an unintentional compliance failure resulting from bona fide error, within 60 days of the loan closing and prior to receiving any notice from the borrower of the compliance failure, the borrower is notified of the compliance failure, appropriate restitution is made to the borrower, and appropriate adjustments are made to the loan."

Page 7, line 6, delete everything after "a" and insert "tax-exempt organization under section 501(c)(3) of the Internal Revenue Code that is licensed under chapter 58."

Page 7, delete line 7

The motion prevailed. So the amendment was adopted.

CALL OF THE SENATE

Senator Pappas imposed a call of the Senate for the balance of the proceedings on S.F. No. 3030. The Sergeant at Arms was instructed to bring in the absent members.

S.F. No. 3030 was read the third time, as amended, and placed on its final passage.

The question was taken on the passage of the bill, as amended.

The roll was called, and there were yeas 63 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Higgins	Larson	Ourada	Scheevel
Bachmann	Hottinger	Lesewski	Pappas	Scheid
Belanger	Johnson, Dave	Lessard	Pariseau	Schwab
Berg	Johnson, Debbie	Limmer	Pogemiller	Solon, Y.P.
Berglin	Johnson, Doug	Marty	Price	Stevens
Betzold	Kelley, S.P.	Metzen	Reiter	Stumpf
Chaudhary	Kierlin	Moe, R.D.	Rest	Terwilliger
Cohen	Kinkel	Moua	Ring	Tomassoni
Day	Kiscaden	Murphy	Robertson	Vickerman
Dille	Kleis	Neuville	Robling	Wiener
Fischbach	Knutson	Oliver	Sabo	Wiger
Foley	Krentz	Olson	Sams	
Fowler	Langseth	Orfield	Samuelson	

So the bill, as amended, was passed and its title was agreed to.

SPECIAL ORDER

S.F. No. 2991: A bill for an act relating to the military; requiring payment of a salary differential to certain state employees who are members of the national guard or other military reserve units and who have been called to active military duty on or after September 11, 2001; permitting local governments to pay a similar salary differential for their employees who are called from reserve status to active military service; amending Minnesota Statutes 2000, section 471.975; proposing coding for new law in Minnesota Statutes, chapter 43A.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 58 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Higgins	Lesewski	Ourada	Scheevel
Bachmann	Hottinger	Lessard	Pariseau	Scheid
Belanger	Johnson, Dave	Limmer	Pogemiller	Schwab
Berg	Johnson, Dean	Marty	Price	Solon, Y.P.
Berglin	Johnson, Debbie	Metzen	Reiter	Stevens
Betzold	Kelley, S.P.	Moe, R.D.	Rest	Stumpf
Chaudhary	Kierlin	Moua	Ring	Terwilliger
Cohen	Kinkel	Murphy	Robertson	Vickerman
Day	Kiscaden	Neuville	Robling	Wiener
Fischbach	Kleis	Oliver	Sabo	Wiger
Foley	Knutson	Olson	Sams	
Fowler	Larson	Orfield	Samuelson	

So the bill passed and its title was agreed to.

SPECIAL ORDER

S.F. No. 2950: A bill for an act relating to elections; extending the distance a polling place may be located outside a precinct in the metropolitan area; authorizing the appointment of election judges who are not affiliated with a major political party; amending Minnesota Statutes 2000, sections 204B.16, subdivision 1; 204B.21, subdivision 2.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 45 and nays 12, as follows:

Those who voted in the affirmative were:

Anderson	Higgins	Krentz	Ourada	Samuelson
Berg	Hottinger	Lessard	Pogemiller	Scheevel
Berglin	Johnson, Dean	Marty	Price	Scheid
Betzold	Johnson, Doug	Metzen	Rest	Solon, Y.P.
Chaudhary	Kelley, S.P.	Moe, R.D.	Ring	Stumpf
Cohen	Kierlin	Moua	Robertson	Tomassoni
Day	Kinkel	Murphy	Robling	Vickerman
Foley	Kiscaden	Oliver	Sabo	Wiener
Fowler	Knutson	Orfield	Sams	Wiger

Those who voted in the negative were:

Bachmann	Larson	Neuville	Reiter	Stevens
Fischbach	Lesewski	Pariseau	Schwab	Terwilliger
Johnson, Debbie	Limmer			

So the bill passed and its title was agreed to.

SPECIAL ORDER

H.F. No. 2706: A bill for an act relating to traffic regulations; modifying traffic laws relating to emergency vehicles; imposing misdemeanor penalty for intentionally obstructing emergency vehicle during emergency duty; making clarifying changes; amending Minnesota Statutes 2000, sections 169.03, subdivision 2; 169.20, subdivision 5a; Minnesota Statutes 2001 Supplement, section 169.20, subdivision 5.

Senator Schwab moved to amend H.F. No. 2706, as amended pursuant to Rule 45, adopted by the Senate March 21, 2002, as follows:

(The text of the amended House File is identical to S.F. No. 3076.)

Page 1, after line 8, insert:

"Section 1. Minnesota Statutes 2000, section 169.03, subdivision 2, is amended to read:

Subd. 2. [STOPS.] The driver of any authorized emergency vehicle, when responding to an emergency call, upon approaching a red or stop signal or any stop sign shall slow down as necessary for safety, but may proceed cautiously past such red or stop sign or signal after sounding siren and displaying red lights, except that a law enforcement vehicle responding to an emergency call shall sound its siren or display at least one lighted red light to the front.

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

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

H.F. No. 2706 was read the third time, as amended, and placed on its final passage.

The question was taken on the passage of the bill, as amended.

The roll was called, and there were yeas 57 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Higgins	Lessard	Pappas	Scheid
Bachmann	Hottinger	Limmer	Pariseau	Schwab
Belanger	Johnson, Debbie	Lourey	Pogemiller	Solon, Y.P.
Berg	Kelley, S.P.	Marty	Price	Stevens
Berglin	Kierlin	Metzen	Reiter	Stumpf
Betzold	Kinkel	Moe, R.D.	Rest	Tomassoni
Chaudhary	Kiscaden	Moua	Ring	Vickerman
Cohen	Kleis	Murphy	Robertson	Wiener
Day	Knutson	Neuville	Robling	Wiger
Dille	Krentz	Oliver	Sams	
Fischbach	Langseth	Olson	Samuelson	
Foley	Lesewski	Orfield	Scheevel	

So the bill, as amended, was passed and its title was agreed to.

SPECIAL ORDER

S.F. No. 2594: A bill for an act relating to agriculture; creating the agriculture and renewable energy loan program; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 41B.

Senator Lourey moved to amend S.F. No. 2594 as follows:

Page 1, line 7, delete "SUSTAINABLE AGRICULTURE AND"

Page 1, line 8, delete "RENEWABLE ENERGY" and insert "METHANE DIGESTER"

Page 1, line 10, delete everything after "implement"

Page 1, delete lines 11 to 17

Page 1, line 18, delete everything before "(a)"

Page 2, line 3, delete everything after "the"

Page 2, line 4, delete "renewable energy" and insert "manure digester"

Page 2, line 5, delete everything after the period

Page 2, delete lines 6 to 8

Page 2, line 10, delete "these programs" and insert "a loan under this section"

Page 2, line 17, after "may" insert "make a direct loan or"

Page 2, line 22, delete ", but" and insert a period and after "rate" insert "for a direct loan or a loan participation"

Page 2, line 24, after "for" insert "a direct loan or a"

Page 2, line 34, after the second "for" insert "a direct loan or a"

Page 3, line 1, delete everything after "at"

Page 3, delete line 2 and insert "$100 for a loan under"

Page 3, line 3, delete ", clause (2)"

Page 3, delete lines 5 to 21

Page 3, line 22, delete "6" and insert "5" and delete "METHANE DIGESTER"

Page 3, line 26, delete "Participation" and insert "State participation in a participation loan"

Page 3, line 27, delete everything after "loan" and insert ". A direct loan or loan participation may not exceed $250,000."

Page 3, line 30, delete "participated in" and insert "received"

Page 3, lines 31 and 33, delete ", clause (2),"

Page 3, line 32, delete "participating in" and insert "receiving"

Page 3, line 35, after "account" insert "in Minnesota Statutes, section 17.115, that is"

Page 3, line 36, delete "the shared savings loan program established" and insert "manure digester loans"

Page 4, line 1, after the second comma, insert "subdivision 5,"

Page 4, line 6, after "from" insert "manure digester" and delete "sections" and insert "section"

Page 4, line 7, after "and" insert "from disaster recovery loans, under Minnesota Statutes, section"

Page 4, line 15, delete ", clause (2)"

Amend the title as follows:

Page 1, line 2, delete "agriculture and" and insert "methane digester"

Page 1, line 3, delete "renewable energy"

CALL OF THE SENATE

Senator Lourey imposed a call of the Senate for the balance of the proceedings on S.F. No. 2594. The Sergeant at Arms was instructed to bring in the absent members.

Senator Stevens moved that S.F. No. 2594 be laid on the table. The motion prevailed.

SPECIAL ORDER

H.F. No. 2780: A bill for an act relating to real property; creating a curative act for conveyances by counties; providing for recording of documents written in foreign language; providing for an affidavit of custodian; repealing sunset on nonconsensual common law lien statute; proposing coding for new law in Minnesota Statutes, chapters 507; 527; repealing Minnesota Statutes 2000, section 514.99, subdivision 6.

Senator Neuville moved to amend H.F. No. 2780, as amended pursuant to Rule 45, adopted by the Senate March 25, 2002, as follows:

(The text of the amended House File is identical to S.F. No. 2541.)

Page 5, after line 13, insert:

"(c) Section 5 is effective the day following final enactment."

The motion prevailed. So the amendment was adopted.

Senator Neuville moved that H.F. No. 2780 be laid on the table. The motion prevailed.

SPECIAL ORDER

S.F. No. 3384: A bill for an act relating to elections; changing certain provisions of the campaign finance and public disclosure law; amending Minnesota Statutes 2000, sections 10A.01, subdivision 35; 10A.02, subdivision 11; 10A.025, subdivisions 2, 4; 10A.03, subdivision 3; 10A.04, subdivisions 4, 5, 6; 10A.08; 10A.09, subdivision 7; 10A.11, subdivision 7; 10A.12, subdivision 6; 10A.13, subdivision 1; 10A.14, subdivision 4; 10A.15, subdivision 4; 10A.16; 10A.17, subdivision 5, by adding a subdivision; 10A.18; 10A.20, subdivision 12, by adding subdivisions; 10A.25, subdivision 10; 10A.255, subdivision 1; 10A.27, subdivisions 9, 11, 13, by adding a subdivision; 10A.273, subdivisions 1, 4; 10A.28, subdivisions 1, 2, 4, by adding a subdivision; 10A.29; 10A.322, subdivision 1; 10A.323; 356A.06, subdivision 4; Minnesota Statutes 2001 Supplement, section 10A.31, subdivision 7.

Senator Hottinger moved to amend S.F. No. 3384 as follows:

Page 10, line 29, delete the second "the" and insert "a"

Page 10, line 36, delete the comma

Page 12, line 17, delete "report" and insert "notice"

Page 12, after line 20, insert:

"Sec. 23. Minnesota Statutes 2000, section 10A.25, is amended by adding a subdivision to read:

Subd. 3a. [INDEPENDENT EXPENDITURES.] The principal campaign committee of a candidate must not make independent expenditures."

Page 14, delete section 25 and insert:

"Sec. 26. Minnesota Statutes 2000, section 10A.27, subdivision 1, is amended to read:

Subdivision 1. [CONTRIBUTION LIMITS.] (a) Except as provided in subdivision 2, a candidate must not permit the candidate's principal campaign committee to accept aggregate contributions made or delivered by any individual, political committee, or political fund in excess of the following:

(1) to candidates for governor and lieutenant governor running together, $2,000 in an election year for the office sought and $500 in other years;

(2) to a candidate for attorney general, $1,000 in an election year for the office sought and $200 in other years;

(3) to a candidate for the office of secretary of state or state auditor, $500 in an election year for the office sought and $100 in other years;

(4) to a candidate for state senator, $500 in an election year for the office sought and $100 in other years; and

(5) to a candidate for state representative, $500 in an election year for the office sought and $100 in the other year.

(b) The following deliveries are not subject to the bundling limitation in this subdivision:

(1) delivery of contributions collected by a member of the candidate's principal campaign committee, such as a block worker or a volunteer who hosts a fund raising event, to the committee's treasurer; and

(2) a delivery made by an individual on behalf of the individual's spouse.

(c) A political committee or political fund must not make a contribution a candidate is prohibited from accepting."

Page 14, line 36, after the period, insert "A contribution from a dissolving principal campaign committee is subject to the same limitations as are imposed on a political committee by subdivisions 1 and 11 and section 10A.273, except that there is no limit on the amount that may be transferred from the dissolving principal campaign committee of a candidate for the legislature to another principal campaign committee of the same candidate. A principal campaign committee that makes a contribution to another principal campaign committee must provide with the contribution a written statement of the committee's intent to dissolve and terminate its registration within 12 months after the contribution was made. If the committee fails to dissolve and terminate its registration by that time, the board may levy a civil penalty up to four times the size of the contribution against the contributing committee. A contribution from a terminating principal campaign committee that is not accepted by another principal campaign committee must be forwarded to the board for deposit in the general account of the state elections campaign fund."

Page 15, delete lines 14 to 16

Page 17, after line 26, insert:

"Sec. 32. Minnesota Statutes 2000, section 10A.273, subdivision 5, is amended to read:

Subd. 5. [SPECIAL ELECTION.] This section does not apply ~~to a candidate or a candidate's principal campaign committee~~ in a legislative special election during the period beginning when the person becomes a candidate in the special election and ending on the day of the special election."

Pages 18 and 19, delete section 34

Page 19, delete line 8 and insert "individual or association is guilty of a gross misdemeanor and subject to a"

Page 21, line 2, delete everything after "10A.324"

Page 21, lines 3 and 4, delete the new language

Page 23, delete section 41

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Hottinger then moved to amend S.F. No. 3384 as follows:

Page 1, after line 19, insert:

"ARTICLE 1

CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD"

Page 23, after line 32, insert:

"ARTICLE 2

INDEPENDENT EXPENDITURES

Section 1. Minnesota Statutes 2000, section 10A.01, subdivision 9, is amended to read:

Subd. 9. [CAMPAIGN EXPENDITURE.] (a) "Campaign expenditure" or "expenditure" means a purchase or payment of money or anything of value, or an advance of credit, made or incurred for the purpose of influencing the nomination or election of a candidate or for the purpose of promoting or defeating a ballot question.

(b) "Expenditure" includes a cost incurred to design, produce, or disseminate a communication if the communication contains words such as "vote for," "reelect," "(name of candidate) for (office)," "vote against," "defeat," or another phrase or campaign slogan that in context can have no reasonable meaning other than to advocate support for or opposition to the nomination or election of one or more clearly identified candidates.

(c) "Expenditure" is presumed to include a cost incurred to design, produce, or disseminate a communication if the communication names or depicts one or more clearly identified candidates, is disseminated during the 45 days before a primary election, during the 60 days before a general election, or during a special election cycle until election day, and the cost exceeds the following amounts for a communication naming or depicting a candidate for the following offices:

(1) $500 for a candidate for governor, lieutenant governor, attorney general, secretary of state, or state auditor; or

(2) $100 for a candidate for state senator or representative.

An individual or association presumed under this paragraph to have made an expenditure may rebut the presumption by a written statement signed by the spender and filed with the board stating that the cost was not incurred with intent to influence the nomination, election, or defeat of any candidate, supported by any additional evidence the spender chooses to submit. The board may consider any additional evidence it deems relevant and material and must determine by a preponderance of the evidence whether the cost was incurred with intent to influence the nomination, election, or defeat of a candidate.

(d) An expenditure is considered to be made in the year in which the candidate made the purchase of goods or services or incurred an obligation to pay for goods or services.

(e) An expenditure made for the purpose of defeating a candidate is considered made for the purpose of influencing the nomination or election of that candidate or any opponent of that candidate.

(f) Except as provided in clause (1), "expenditure" includes the dollar value of a donation in kind.

"Expenditure" does not include:

(1) noncampaign disbursements as defined in subdivision 26;

(2) services provided without compensation by an individual volunteering personal time on behalf of a candidate, ballot question, political committee, political fund, principal campaign committee, or party unit; ~~or~~

(3) the publishing or broadcasting of news items or editorial comments by the news media, if the news medium is not owned by or affiliated with any candidate or principal campaign committee; or

(4) a cost incurred by an association for a communication targeted to inform solely its own dues-paying members of the association's position on a candidate.

Sec. 2. Minnesota Statutes 2000, section 10A.01, subdivision 18, is amended to read:

Subd. 18. [INDEPENDENT EXPENDITURE.] (a) "Independent expenditure" means an expenditure ~~expressly advocating the election or defeat of a clearly identified candidate, if the expenditure~~ that is made without the express or implied consent, authorization, or cooperation of, and not in concert with or at the request or suggestion of, any candidate or any candidate's principal campaign committee or agent. An independent expenditure is not a contribution to that candidate. ~~An expenditure by a political party or political party unit in a race where the political party has a candidate on the ballot is not an independent expenditure.~~

(b) An expenditure is presumed to be not independent if, for example:

(1) in the same election cycle in which the expenditure occurs, the spender or the spender's agent retains the professional services of an individual or entity that, in a nonministerial capacity, provides or has provided campaign-related service, including polling or other campaign research, media consulting or production, direct mail, or fundraising, to a candidate supported by the spender for nomination or election to the same office as any candidate whose nomination or election the expenditure is intended to influence or to a political party working in coordination with the supported candidate;

(2) the expenditure pays for a communication that disseminates, in whole or in substantial part, a broadcast or written, graphic, or other form of campaign material designed, produced, or distributed by the candidate, the candidate's principal campaign committee, or their agents;

(3) the expenditure is based on information about the candidate's electoral campaign plans, projects, or needs that is provided by the candidate, the candidate's principal campaign committee, or their agents directly or indirectly to the spender or the spender's agent, with an express or tacit understanding that the spender is considering making the expenditure;

(4) before the election, the spender or the spender's agent informs a candidate or the principal campaign committee or agent of a candidate for the same office as a candidate clearly identified in a communication paid for by the expenditure about the communication's contents; timing, location, mode, or frequency of dissemination; or intended audience; or

(5) in the same election cycle in which the expenditure occurs, the spender or the spender's agent is serving or has served in an executive, policymaking, fundraising, or advisory position with the candidate's campaign or has participated in strategic or policymaking discussions with the candidate's campaign relating to the candidate's pursuit of nomination or election to office and the candidate is pursuing the same office as a candidate whose nomination or election the expenditure is intended to influence.

An individual or association presumed under this paragraph to have made an expenditure that was not independent may rebut the presumption by a written statement signed by the spender and

filed with the board stating that the expenditure was made without the express or implied consent, authorization, or cooperation of, and not in concert with or at the request or suggestion of, any candidate or any candidate's principal campaign committee or agent, supported by any additional evidence the spender chooses to submit. The board may consider any additional evidence it deems relevant and material and must determine by a preponderance of the evidence whether the expenditure was independent.

(c) An expenditure by anyone other than a principal campaign committee that does not qualify as an independent expenditure under this subdivision is deemed to be an approved expenditure under subdivision 4.

Sec. 3. Minnesota Statutes 2000, section 10A.25, subdivision 1, is amended to read:

Subdivision 1. [LIMITS ARE VOLUNTARY.] The expenditure limits imposed by this section on a candidate apply only to a candidate who has signed an agreement under section 10A.322 to be bound by them as a condition of receiving a public subsidy for the candidate's campaign. The prohibition imposed by this section on a political party applies only to a political party that has signed an agreement under section 10A.322 to be bound by it as a condition of receiving a public subsidy for the party's activities.

Sec. 4. Minnesota Statutes 2000, section 10A.25, is amended by adding a subdivision to read:

Subd. 14. [INDEPENDENT EXPENDITURES BY POLITICAL PARTIES.] (a) A political party or party unit must not make an independent expenditure.

(b) A political party that has agreed not to make independent expenditures as a condition of receiving a public subsidy is released from the prohibition but remains eligible to receive a public subsidy if a political party that has not agreed to the prohibition makes an independent expenditure during that election cycle.

(c) A political party that has not agreed to the prohibition in this subdivision must file written notice with the board and serve written notice on every other political party within 24 hours after making an independent expenditure. The notice must state only that the political party has made an independent expenditure. Upon receipt of the notice, the political party that agreed to the prohibition is no longer subject to the prohibition but remains eligible to receive a public subsidy.

Sec. 5. Minnesota Statutes 2000, section 10A.28, subdivision 1, is amended to read:

Subdivision 1. [EXCEEDING EXPENDITURE LIMITS.] (a) A candidate subject to the expenditure limits in section 10A.25 who permits the candidate's principal campaign committee to make expenditures or permits approved expenditures to be made on the candidate's behalf in excess of the limits imposed by section 10A.25, as adjusted by section 10A.255, is subject to a civil fine of up to four times the amount by which the expenditures exceeded the limit.

(b) The chair of a political party or party unit subject to the prohibition in section 10A.25 that makes expenditures in violation of section 10A.25 is subject to a civil fine of up to four times the amount of the expenditures.

Sec. 6. Minnesota Statutes 2000, section 10A.31, subdivision 3, is amended to read:

Subd. 3. [FORM.] The commissioner of revenue must provide on the first page of the income tax form and the renter and homeowner property tax refund return a space for the individual to indicate a wish to pay $5 ($10 if filing a joint return) from the general fund of the state to finance election campaigns. The form must also contain language prepared by the commissioner that permits the individual to direct the state to pay the $5 (or $10 if filing a joint return) to: (1) one of the ~~major~~ political parties~~; (2) any minor political party~~ that qualifies under subdivision 3a; or ~~(3)~~ (2) all qualifying candidates as provided by subdivision 7. The renter and homeowner property tax refund return must include instructions that the individual filing the return may designate $5 on the return only if the individual has not designated $5 on the income tax return.

Sec. 7. Minnesota Statutes 2000, section 10A.31, subdivision 5, is amended to read:

Subd. 5. [ALLOCATION.] (a) [GENERAL ACCOUNT.] In each calendar year the money in the general account must be allocated to candidates as follows:

(1) 21 percent for the offices of governor and lieutenant governor together;

(2) 4.2 percent for the office of attorney general;

(3) 2.4 percent each for the offices of secretary of state and state auditor;

(4) in each calendar year during the period in which state senators serve a four-year term, 23-1/3 percent for the office of state senator, and 46-2/3 percent for the office of state representative; and

(5) in each calendar year during the period in which state senators serve a two-year term, 35 percent each for the offices of state senator and state representative.

(b) [PARTY ACCOUNT.] In each calendar year the money in each party account must be allocated as follows:

(1) 14 percent for the offices of governor and lieutenant governor together;

(2) 2.8 percent for the office of attorney general;

(3) 1.6 percent each for the offices of secretary of state and state auditor;

(4) in each calendar year during the period in which state senators serve a four-year term, 23-1/3 percent for the office of state senator, and 46-2/3 percent for the office of state representative;

(5) in each calendar year during the period in which state senators serve a two-year term, 35 percent each for the offices of state senator and state representative; and

(6) ten percent for the state committee of a political party that has signed and filed with the board an agreement under section 10A.322 not to make independent expenditures.

Money allocated to each state committee under clause (6) must be deposited in a separate account and must be spent for only those items enumerated in section 10A.275. Money allocated to a state committee under clause (6) must be paid to the committee by the board as it is received in the account on a monthly basis, with payment on the 15th day of the calendar month following the month in which the returns were processed by the department of revenue, provided that these distributions would be equal to 90 percent of the amount of money indicated in the department of revenue's weekly unedited reports of income tax returns and property tax refund returns processed in the month, as notified by the department of revenue to the board. The amounts paid to each state committee are subject to biennial adjustment and settlement at the time of each certification required of the commissioner of revenue under subdivisions 7 and 10. If the total amount of payments received by a state committee for the period reflected on a certification by the department of revenue is different from the amount that should have been received during the period according to the certification, each subsequent monthly payment must be increased or decreased to the fullest extent possible until the amount of the overpayment is recovered or the underpayment is distributed.

Money not allocated to a state committee under clause (6) because the state committee has not signed and filed with the board a spending limit agreement under section 10A.322 must be canceled to the general fund.

Sec. 8. Minnesota Statutes 2000, section 10A.322, is amended to read:

10A.322 [SPENDING LIMIT AGREEMENTS.]

Subdivision 1. [AGREEMENT BY CANDIDATE.] (a) As a condition of receiving a public subsidy, a candidate must sign and file with the board a written agreement in which the candidate agrees that the candidate will comply with sections 10A.25; 10A.27, subdivision 10; and 10A.324.

(b) Before the first day of filing for office, the board must forward agreement forms to all filing officers. The board must also provide agreement forms to candidates on request at any time. The candidate must file the agreement with the board by ~~September~~ August 1 preceding the candidate's general election or a special election held at the general election. An agreement may not be filed after that date. An agreement once filed may not be rescinded.

(c) The board must notify the commissioner of revenue of any agreement ~~signed~~ filed under this subdivision.

(d) Notwithstanding paragraph (b), if a vacancy occurs that will be filled by means of a special election and the filing period does not coincide with the filing period for the general election, a candidate may sign and ~~submit~~ file a spending limit agreement not later than the day after the candidate files the affidavit of candidacy or nominating petition for the office.

~~Subd. 2. [HOW LONG AGREEMENT IS EFFECTIVE.]~~ (e) The agreement, insofar as it relates to the expenditure limits in section 10A.25, as adjusted by section 10A.255, and the contribution limit in section 10A.27, subdivision 10, remains effective for candidates until the dissolution of the principal campaign committee of the candidate or the end of the first election cycle completed after the agreement was filed, whichever occurs first.

Subd. 2a. [AGREEMENT BY POLITICAL PARTY.] (a) As a condition of receiving a public subsidy, the chair of the state committee of a political party must sign and file with the board a written agreement in which the state committee agrees that the political party and all its party units will comply with section 10A.25. An agreement once filed may not be rescinded.

(b) The board must provide agreement forms to political parties on request at any time. The state chair must file the agreement with the board by February 1 of any year during an election cycle in order to be allocated money designated to the party account on tax returns for the preceding and current taxable years.

(c) The agreement not to make independent expenditures remains in effect until the end of the first general election cycle completed after the agreement was filed or the dissolution of the political party, whichever occurs first.

(d) The board must notify the commissioner of revenue of any agreement filed under this subdivision.

Subd. 4. [REFUND RECEIPT FORMS; PENALTY.] The board must make available to a political party ~~on request and to any~~ or candidate for whom an agreement under this section is effective, a supply of official refund receipt forms that state in boldface type that (1) a contributor who is given a receipt form is eligible to claim a refund as provided in section 290.06, subdivision 23, and (2) ~~if the contribution is to a candidate,~~ that the candidate or political party has signed an agreement to limit campaign expenditures as provided in this section. The forms must provide duplicate copies of the receipt to be attached to the contributor's claim. If a candidate ~~who~~ does not sign an agreement under this section and ~~who~~ the candidate or the treasurer of the candidate's principal campaign committee willfully issues an official refund receipt form or a facsimile of one to any of the candidate's contributors, the issuer of the receipt is guilty of a misdemeanor. If the state chair of a political party has not signed an agreement under this section and the chair or treasurer of a party unit willfully issues an official refund receipt form or a facsimile of one to any of the party's contributors, the issuer of the receipt is guilty of a misdemeanor.

Sec. 9. Minnesota Statutes 2001 Supplement, section 290.06, subdivision 23, is amended to read:

Subd. 23. [REFUND OF CONTRIBUTIONS TO POLITICAL PARTIES AND CANDIDATES.] (a) A taxpayer may claim a refund equal to the amount of the taxpayer's contributions made in the calendar year to candidates and to a political party. The maximum refund for an individual must not exceed $50 and for a married couple, filing jointly, must not exceed $100. A refund of a contribution is allowed only if the taxpayer files a form required by the commissioner and attaches to the form a copy of an official refund receipt form issued by the

candidate or party and signed by the candidate, the treasurer of the candidate's principal campaign committee, or the chair or treasurer of the party unit, after the contribution was received. The receipt forms must be numbered, and the data on the receipt that are not public must be made available to the campaign finance and public disclosure board upon its request. A claim must be filed with the commissioner no sooner than January 1 of the calendar year in which the contribution was made and no later than April 15 of the calendar year following the calendar year in which the contribution was made. A taxpayer may file only one claim per calendar year. Amounts paid by the commissioner after June 15 of the calendar year following the calendar year in which the contribution was made must include interest at the rate specified in section 270.76.

(b) No refund is allowed under this subdivision for a contribution to a candidate unless the candidate:

(1) has signed and filed an agreement to limit campaign expenditures as provided in section 10A.322;

(2) is seeking an office for which voluntary spending limits are specified in section 10A.25; and

(3) has designated a principal campaign committee.

This subdivision does not limit the campaign expenditures of a candidate who does not sign an agreement but accepts a contribution for which the contributor improperly claims a refund.

No refund is allowed under this subdivision for a contribution to a political party or party unit unless the state chair of the political party has signed and filed an agreement not to make independent expenditures as provided in section 10A.322. Notwithstanding the deadline in section 10A.322 in order to be eligible to receive a distribution of checkoff money under section 10A.31, there is no deadline for filing an agreement in order to be eligible to receive a refund under this subdivision.

(c) For purposes of this subdivision, "political party" ~~means a major political party as defined in section 200.02, subdivision 7, or a minor political party qualifying for inclusion on the income tax or property tax refund form under section 10A.31, subdivision 3a~~ has the meaning given it in section 10A.01, subdivision 29.

~~A "major party" or "minor party" includes the aggregate of that party's organization within each house of the legislature, the state party organization, and the party organization within congressional districts, counties, legislative districts, municipalities, and precincts.~~ "Party unit" has the meaning given it in section 10A.01, subdivision 30.

"Candidate" means a candidate as defined in section 10A.01, subdivision 10, except a candidate for judicial office.

"Contribution" means a gift of money.

(d) The commissioner shall make copies of the form available to the public and candidates upon request.

(e) The following data collected or maintained by the commissioner under this subdivision are private: the identities of individuals claiming a refund, the identities of candidates to whom those individuals have made contributions, and the amount of each contribution.

(f) The commissioner shall report to the campaign finance and public disclosure board by each August 1 a summary showing the total number and aggregate amount of political contribution refunds made on behalf of each candidate and each political party. These data are public.

(g) The amount necessary to pay claims for the refund provided in this section is appropriated from the general fund to the commissioner of revenue.

(h) For a taxpayer who files a claim for refund via the Internet or other electronic means, the commissioner may accept the number on the official receipt as documentation that a contribution was made rather than the actual receipt as required by paragraph (a).

Sec. 10. [TRANSITION.]

Notwithstanding section 8, the deadline for a state party chair to file with the campaign finance and public disclosure board an agreement not to make independent expenditures in order to be eligible to receive checkoff money for the general election cycle ending December 31, 2002, is June 1, 2002.

Sec. 11. [EFFECTIVE DATE.]

This article is effective the day following final enactment and applies to contributions received and expenditures and checkoff money distributions made on and after that date.

ARTICLE 3

Section 1. [FAIR AND CLEAN ELECTIONS ACT.]

This article may be cited as the Fair and Clean Elections Act.

Sec. 2. Minnesota Statutes 2000, section 10A.01, subdivision 1, is amended to read:

Subdivision 1. [APPLICATION.] For the purposes of this chapter and chapter 10B, the terms defined in this section have the meanings given them unless the context clearly indicates otherwise.

Sec. 3. Minnesota Statutes 2000, section 10A.02, subdivision 8, is amended to read:

Subd. 8. [DUTIES.] (a) The board must report at the close of each fiscal year to the legislature, the governor, and the public concerning the action it has taken, the names, salaries, and duties of all individuals in its employ, and the money it has disbursed. The board must include and identify in its report any other reports it has made during the fiscal year. It may indicate apparent abuses and offer legislative recommendations.

(b) The board must prescribe forms for statements and reports required to be filed under this chapter or chapter 10B and make the forms available to individuals required to file them.

(c) The board must make available to the individuals required to file the reports and statements a manual setting forth the recommended uniform methods of bookkeeping and reporting.

(d) The board must develop a filing, coding, and cross-indexing system consistent with the purposes of this chapter and chapter 10B.

(e) The board must make the reports and statements filed with it available for public inspection and copying by the end of the second day following the day on which they were received. An individual may copy a report or statement by hand or by duplicating machine and the board must provide duplicating services at cost for this purpose.

(f) Notwithstanding section 138.163, the board must preserve reports and statements for a period of five years from the date of receipt.

(g) The board must compile and maintain a current list and summary of all statements or parts of statements pertaining to each candidate.

(h) The board may prepare and publish reports it considers appropriate.

Sec. 4. Minnesota Statutes 2000, section 10A.02, subdivision 10, is amended to read:

Subd. 10. [AUDITS AND INVESTIGATIONS.] The board may make audits and investigations with respect to statements and reports that are filed or that should have been filed under this chapter or chapter 10B. In all matters relating to its official duties, the board has the power to issue subpoenas and cause them to be served. If a person does not comply with a subpoena, the board may apply to the district court of Ramsey county for issuance of an order compelling obedience to the subpoena. A person failing to obey the order is punishable by the court as for contempt.

Sec. 5. Minnesota Statutes 2000, section 10A.02, subdivision 11, is amended to read:

Subd. 11. [VIOLATIONS; ENFORCEMENT.] (a) The board may investigate any alleged violation of this chapter or chapter 10B. The board must investigate any violation that is alleged in a written complaint filed with the board and must within 30 days after the filing of the complaint make a public finding of whether there is probable cause to believe a violation has occurred, except that if the complaint alleges a violation of section ~~10A.25 or 10A.27~~ 10B.13 or 10B.17, the board must either enter a conciliation agreement or make a public finding of whether there is probable cause, within 60 days after the filing of the complaint. The deadline for action on a written complaint may be extended by majority vote of the board.

(b) Within a reasonable time after beginning an investigation of an individual or association, the board must notify the individual or association of the fact of the investigation. The board must not make a finding of whether there is probable cause to believe a violation has occurred without notifying the individual or association of the nature of the allegations and affording an opportunity to answer those allegations.

(c) A hearing or action of the board concerning a complaint or investigation other than a finding concerning probable cause or a conciliation agreement is confidential. Until the board makes a public finding concerning probable cause or enters a conciliation agreement:

(1) a member, employee, or agent of the board must not disclose to an individual information obtained by that member, employee, or agent concerning a complaint or investigation except as required to carry out the investigation or take action in the matter as authorized by this chapter or chapter 10B; and

(2) an individual who discloses information contrary to this subdivision is ~~guilty of a misdemeanor~~ subject to a civil penalty imposed by the board.

(d) ~~Except as provided in section 10A.28,~~ After the board makes a public finding of probable cause to believe that a person has violated this chapter, the board must report that finding to the appropriate law enforcement authorities.

Sec. 6. Minnesota Statutes 2000, section 10A.02, subdivision 11a, is amended to read:

Subd. 11a. [DATA PRIVACY.] (a) If, after making a public finding concerning probable cause or entering a conciliation agreement, the board determines that the record of the investigation contains statements, documents, or other matter that, if disclosed, would unfairly injure the reputation of an innocent individual, the board may:

(1) retain the statement, document, or other matter as a private record, as defined in section 13.02, subdivision 12, for a period of one year, after which it must be destroyed; or

(2) return the statement, document, or other matter to the individual who supplied it to the board.

(b) When publishing reports or statements on its Web site, the board must not publish the home street address or telephone number of an individual.

Sec. 7. Minnesota Statutes 2000, section 10A.02, subdivision 12, is amended to read:

Subd. 12. [ADVISORY OPINIONS.] (a) The board may issue and publish advisory opinions on the requirements of this chapter or chapter 10B based upon real or hypothetical situations. An application for an advisory opinion may be made only by an individual or association who wishes to use the opinion to guide the individual's or the association's own conduct. The board must issue written opinions on all such questions submitted to it within 30 days after receipt of written application, unless a majority of the board agrees to extend the time limit.

(b) A written advisory opinion issued by the board is binding on the board in a subsequent board proceeding concerning the person making or covered by the request and is a defense in a judicial proceeding that involves the subject matter of the opinion and is brought against the person making or covered by the request unless:

(1) the board has amended or revoked the opinion before the initiation of the board or judicial proceeding, has notified the person making or covered by the request of its action, and has allowed at least 30 days for the person to do anything that might be necessary to comply with the amended or revoked opinion;

(2) the request has omitted or misstated material facts; or

(3) the person making or covered by the request has not acted in good faith in reliance on the opinion.

(c) A request for an opinion and the opinion itself are nonpublic data. The board, however, may publish an opinion or a summary of an opinion, but may not include in the publication the name of the requester, the name of a person covered by a request from an agency or political subdivision, or any other information that might identify the requester, unless the person consents to the inclusion.

Sec. 8. Minnesota Statutes 2000, section 10A.02, subdivision 13, is amended to read:

Subd. 13. [RULES.] Chapter 14 applies to the board. The board may adopt rules to carry out the purposes of this chapter or chapter 10B.

Sec. 9. Minnesota Statutes 2000, section 10A.025, subdivision 1, is amended to read:

Subdivision 1. [FILING DATE.] If a scheduled filing date under this chapter or chapter 10B falls on a Saturday, Sunday, or legal holiday, the filing date is the next regular business day.

Sec. 10. Minnesota Statutes 2000, section 10A.025, subdivision 2, is amended to read:

Subd. 2. [PENALTY FOR FALSE STATEMENTS.] (a) A report or statement required to be filed under this chapter or chapter 10B must be signed and certified as true by the individual required to file the report. An individual who signs and certifies to be true a report or statement knowing it contains false information or who knowingly omits required information is guilty of a gross misdemeanor and subject to a civil penalty imposed by the board of up to $3,000.

(b) If a report of campaign contributions or expenditures under section 10B.12 is in error, or if a person knowingly fails to file a report of excess contributions under section 10B.12, subdivision 7, or a notice of independent expenditures under section 10B.12, subdivision 10, the board may impose a civil penalty of up to ten times the amount of the error, or up to ten times the amount that should have been reported, respectively.

(c) The board may order a candidate to return to the board any public subsidy the candidate has received. The board must deposit the amount returned in the state treasury and credit it to the general fund.

(d) After making a public finding that it has probable cause to believe a candidate has violated this subdivision, the board must bring an action, or transmit the finding to a county attorney who must bring an action, in the district court of Ramsey county or, in the case of a legislative candidate, the district court of a county within the legislative district, to collect a civil penalty imposed by the board, to demand the return of any public subsidy paid to the candidate, or to have the nomination or office declared forfeited. If a candidate is judged to have violated this subdivision, the court, after entering the judgment, may enter a supplemental judgment declaring that the candidate has forfeited the nomination or office, except as provided in paragraph (e). If the court enters the supplemental judgment, it must transmit to the filing officer a transcript of the supplemental judgment, the nomination or office becomes vacant, and the vacancy must be filled as provided by law.

(e) If the candidate has been elected to the legislature, the court, after entering the judgment that the candidate has violated this subdivision, must transmit a transcript of the judgment to the secretary of the senate or the chief clerk of the house of representatives, as appropriate, for further consideration by the house to which the candidate was elected.

Sec. 11. Minnesota Statutes 2000, section 10A.071, subdivision 3, is amended to read:

Subd. 3. [EXCEPTIONS.] (a) The prohibitions in this section do not apply if the gift is:

(1) a contribution as defined in section ~~10A.01, subdivision 11~~ 10B.01, subdivision 10;

(2) services to assist an official in the performance of official duties, including but not limited to providing advice, consultation, information, and communication in connection with legislation, and services to constituents;

(3) services of insignificant monetary value;

(4) a plaque or similar memento recognizing individual services in a field of specialty or to a charitable cause;

(5) a trinket or memento of insignificant value;

(6) informational material of unexceptional value; or

(7) food or a beverage given at a reception, meal, or meeting away from the recipient's place of work by an organization before whom the recipient appears to make a speech or answer questions as part of a program.

(b) The prohibitions in this section do not apply if the gift is given:

(1) because of the recipient's membership in a group, a majority of whose members are not officials, and an equivalent gift is given to the other members of the group; or

(2) by a lobbyist or principal who is a member of the family of the recipient, unless the gift is given on behalf of someone who is not a member of that family.

Sec. 12. Minnesota Statutes 2000, section 10A.34, is amended to read:

10A.34 [REMEDIES.]

Subdivision 1. [PERSONAL LIABILITY.] A person charged with a duty under this chapter or chapter 10B is personally liable for the penalty for failing to discharge it.

Subd. 1a. [RECOVERING LATE FEES.] The board may bring an action in the district court in Ramsey county to recover a late filing fee imposed under this chapter or chapter 10B. Money recovered must be deposited in the general fund of the state.

Subd. 2. [INJUNCTION.] The board or a county attorney may seek an injunction in the district court to enforce this chapter or chapter 10B.

Subd. 3. [NOT A CRIME.] Unless otherwise provided, a violation of this chapter or chapter 10B is not a crime.

Subd. 4. [CIVIL PENALTIES.] Unless otherwise provided, a civil penalty imposed by the board under this chapter or chapter 10B may not exceed $1,000. The penalty may be collected by the board in a civil action brought in the district court in Ramsey county or in the county where the defendant resides.

Sec. 13. Minnesota Statutes 2000, section 10A.37, is amended to read:

10A.37 [FREEDOM TO ASSOCIATE AND COMMUNICATE.]

Nothing in this chapter or chapter 10B may be construed to abridge the right of an association to communicate with its members.

Sec. 14. [10B.01] [DEFINITIONS.]

Subdivision 1. [APPLICATION.] The definitions in this section apply to this chapter and chapter 10A.

Subd. 2. [ADVANCE OF CREDIT.] "Advance of credit" means any money owed for goods provided or services rendered. "Advance of credit" does not mean a loan as defined in subdivision 17.

Subd. 3. [APPROVED EXPENDITURE.] "Approved expenditure" means an expenditure made on behalf of a candidate by an entity other than the principal campaign committee of the candidate if the expenditure is made with the authorization or expressed or implied consent of, or in cooperation or in concert with, or at the request or suggestion of the candidate, the candidate's principal campaign committee, or the candidate's agent. An approved expenditure is a contribution to that candidate.

Subd. 4. [ASSOCIATION.] "Association" means a group of two or more persons, who are not all members of an immediate family, acting in concert.

Subd. 5. [BALLOT QUESTION.] "Ballot question" means a question or proposition that is placed on the ballot and that may be voted on by all voters of the state. "Promoting or defeating a ballot question" includes activities related to qualifying the question for placement on the ballot.

Subd. 6. [BOARD.] "Board" means the state campaign finance and public disclosure board.

Subd. 7. [CAMPAIGN EXPENDITURE.] (a) "Campaign expenditure" or "expenditure" means a purchase or payment of money or anything of value, or an advance of credit, made or incurred for the purpose of influencing the nomination or election of a candidate or for the purpose of promoting or defeating a ballot question.

An expenditure is considered to be made in the year in which the candidate made the purchase of goods or services or incurred an obligation to pay for goods or services.

An expenditure made for the purpose of defeating a candidate is considered made for the purpose of influencing the nomination or election of that candidate or any opponent of that candidate.

Except as provided in clause (1), "expenditure" includes the dollar value of a donation in kind.

"Expenditure" does not include:

(1) noncampaign disbursements as defined in subdivision 20;

(2) services provided without compensation by an individual volunteering personal time on behalf of a candidate, ballot question, political committee, political fund, principal campaign committee, or party unit;

(3) the publishing or broadcasting of news items or editorial comments by the news media, if the news medium is not owned by or affiliated with any candidate or principal campaign committee; or

(4) a cost incurred for a communication by a membership organization, including a labor organization, to its members, or a cost incurred for a communication by a corporation to its executive or administrative personnel.

(b) For purposes of paragraph (a), clause (4), "labor organization" means an organization of any kind, or any agency or employee representative committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work. A local, national, or international union, or a local or state central body of a federation of unions, is each considered a separate labor organization for purposes of paragraph (a), clause (4).

(c) For purposes of paragraph (a), clause (4), "executive or administrative personnel" means individuals employed by a corporation who are paid on a salary rather than an hourly basis and who have policymaking, managerial, professional, or supervisory responsibilities.

(1) This definition includes:

(i) individuals who run the corporation's business, such as officers, other executives, and plant, division, and section managers; and

(ii) individuals following the recognized professions, such as lawyers and engineers.

(2) This definition does not include:

(i) professionals who are represented by a labor organization;

(ii) salaried foremen and other salaried lower-level supervisors having direct supervision over hourly employees;

(iii) former or retired personnel; or

(iv) individuals who may be paid by the corporation, such as consultants, but who are not employees of the corporation for the purpose of the collection of, and liability for, employee taxes.

(3) Individuals on commission may be considered executive or administrative personnel if they have policymaking, managerial, professional, or supervisory responsibility and if the individuals are employees of the corporation for the purpose of the collection of, and liability for, employee taxes.

(4) The Fair Labor Standards Act, United States Code, title 29, section 201 et seq., and the regulations issued under the act may serve as a guideline in determining whether individuals have policymaking, managerial, professional, or supervisory responsibilities.

(d) For purposes of paragraph (a), clause (4), "membership organization" means an unincorporated association, trade association, cooperative, corporation without capital stock, or a local, national, or international labor organization that:

(1) is composed of members, some or all of whom are vested with the power and authority to operate or administer the organization, under the organization's articles, bylaws, constitution, or other formal organizational documents;

(2) expressly states the qualifications and requirements for membership in its articles, bylaws, constitution, or other formal organizational documents;

(3) makes its articles, bylaws, constitution, or other formal organizational documents available to its members;

(4) expressly solicits persons to become members;

(5) expressly acknowledges the acceptance of membership, such as by sending a membership card or including the member's name on a membership newsletter list; and

(6) is not organized primarily for the purpose of influencing the nomination for election, or election, of any individual for elected office.

(e) For purposes of paragraph (a), clause (4), the term "members" includes all persons who are currently satisfying the requirements for membership in a membership organization, affirmatively accept the membership organization's invitation to become a member, and either:

(1) have some significant financial attachment to the membership organization, such as a significant investment or ownership stake;

(2) pay membership dues at least annually of a specific amount predetermined by the organization; or

(3) have a significant organizational attachment to the membership organization that includes affirmation of membership on at least an annual basis and direct participatory rights in the governance of the organization. For example, the rights could include the right to vote directly or indirectly for at least one individual on the membership organization's highest governing board;

the right to vote on policy questions where the highest governing body of the membership organization is obligated to abide by the results; the right to approve the organization's annual budget; or the right to participate directly in similar aspects of the organization's governance.

The board may determine, on a case-by-case basis, that persons who do not precisely meet the definition of member but have a relatively enduring and independently significant financial or organizational attachment to the organization may be considered members. For example, student members who pay a lower amount of dues while in school, long-term dues-paying members who qualify for lifetime membership status with little or no dues obligation, and retired members may be considered members of the organization.

Members of a local union are considered to be members of any national or international union of which the local union is a part and of any federation with which the local, national, or international union is affiliated.

In the case of a membership organization that has a national federation structure or has several levels, including, for example, national, state, regional, or local affiliates, a person who qualifies as a member of any entity within the federation or of any affiliate also qualifies as a member of all affiliates.

(f) The status of a membership organization, and of members, for purposes of paragraph (a), clause (4), must be determined under paragraphs (d) and (e) and not by provisions of state law governing unincorporated associations, trade associations, cooperatives, corporations without capital stock, or labor organizations.

(g) "Expenditure" includes a cost incurred to design, produce, or disseminate a communication if the communication contains words such as "vote for," "re-elect," "(name of candidate) for (office)," "vote against," "defeat," or another phrase or campaign slogan that in context can have no reasonable meaning other than to advocate support for or opposition to the nomination or election of one or more clearly identified candidates.

(h) "Expenditure" is presumed to include a cost incurred to design, produce, or disseminate a communication if the communication names or depicts one or more clearly identified candidates, is disseminated during the 45 days before a primary election, the 60 days before a general election, or during a special election cycle until election day, and the cost exceeds the following amounts for a communication naming or depicting a candidate for the following offices:

(1) $500 for a candidate for governor, lieutenant governor, attorney general, secretary of state, or state auditor; or

(2) $100 for a candidate for state senator or representative.

An individual or association presumed under this paragraph to have made an expenditure may rebut the presumption by an affidavit signed by the spender and filed with the board stating that the cost was not incurred with intent to influence the nomination, election, or defeat of any candidate, supported by any additional evidence the spender chooses to submit. The board may consider any additional evidence it deems relevant and material and must determine by a preponderance of the evidence whether the cost was incurred with intent to influence the nomination, election, or defeat of a candidate.

Subd. 8. [CANDIDATE.] "Candidate" means an individual who seeks nomination or election as a state constitutional officer, legislator, or judge. An individual is deemed to seek nomination or election if the individual has taken the action necessary under the law of this state to qualify for nomination or election, has received contributions or made expenditures in excess of $100, or has given implicit or explicit consent for any other person to receive contributions or make expenditures in excess of $100, for the purpose of bringing about the individual's nomination or election. A candidate remains a candidate until the candidate's principal campaign committee is dissolved under section 10B.27.

Subd. 9. [CONDUIT FUND.] "Conduit fund" means money, a negotiable instrument, or a donation in kind collected by an association from its employees and contributed to a candidate or political committee only as directed by the employee from whom the money was collected.

Subd. 10. [CONTRIBUTION.] (a) "Contribution" means money, a negotiable instrument, or a donation in kind that is given to a political committee, political fund, conduit fund, principal campaign committee, or party unit.

(b) "Contribution" includes a loan or advance of credit to a political committee, political fund, principal campaign committee, or party unit, if the loan or advance of credit is: (1) forgiven; or (2) repaid by an individual or an association other than the political committee, political fund, principal campaign committee, or party unit to which the loan or advance of credit was made. If an advance of credit or a loan is forgiven or repaid as provided in this paragraph, it is a contribution in the year in which the loan or advance of credit was made.

(c) "Contribution" does not include services provided without compensation by an individual volunteering personal time on behalf of a candidate, ballot question, political committee, political fund, principal campaign committee, or party unit, or the publishing or broadcasting of news items or editorial comments by the news media.

Subd. 11. [DEPOSITORY.] "Depository" means a bank, savings association, or credit union organized under federal or state law and transacting business within this state.

Subd. 12. [DONATION IN KIND.] "Donation in kind" means anything of value that is given, other than money or negotiable instruments. An approved expenditure is a donation in kind.

Subd. 13. [ELECTION.] "Election" means a primary, special primary, general, or special election.

Subd. 14. [ELECTION CYCLE.] "Election cycle" means the period from January 1 following a general election for an office to December 31 following the next general election for that office, except that "election cycle" for a special election means the period from the date the special election writ is issued to 60 days after the special election is held.

Subd. 15. [FINANCIAL INSTITUTION.] "Financial institution" means a lending institution chartered by an agency of the federal government or regulated by the commissioner of commerce.

Subd. 16. [INDEPENDENT EXPENDITURE.] (a) "Independent expenditure" means an expenditure that is made without the express or implied consent, authorization, or cooperation of, and not in concert with or at the request or suggestion of, any candidate or any candidate's principal campaign committee or agent. An independent expenditure is not a contribution to a candidate.

(b) An expenditure is presumed to be not independent if, for example:

(1) in the same election cycle in which the expenditure occurs, the spender or the spender's agent retains the professional services of an individual or entity that, in a nonministerial capacity, provides or has provided campaign-related service, including polling or other campaign research, media consulting or production, direct mail, or fundraising, to a candidate supported by the spender for nomination or election to the same office as any candidate whose nomination or election the expenditure is intended to influence or to a political party working in coordination with the supported candidate;

(2) the expenditure pays for a communication that disseminates, in whole or in substantial part, a broadcast or written, graphic, or other form of campaign material designed, produced, or distributed by the candidate, the candidate's principal campaign committee, or their agents;

(3) the expenditure is based on information about the candidate's electoral campaign plans, projects, or needs that is provided by the candidate, the candidate's principal campaign committee, or their agents directly or indirectly to the spender or the spender's agent, with an express or tacit understanding that the spender is considering making the expenditure;

(4) before the election, the spender or the spender's agent informs a candidate or the principal campaign committee or agent of a candidate for the same office as a candidate clearly identified in a communication paid for by the expenditure about the communication's contents; timing, location, mode, or frequency of dissemination; or intended audience; or

(5) in the same election cycle in which the expenditure occurs, the spender or the spender's agent is serving or has served in an executive, policymaking, fundraising, or advisory position with the candidate's campaign or has participated in strategic or policymaking discussions with the candidate's campaign relating to the candidate's pursuit of nomination or election to office and the candidate is pursuing the same office as a candidate whose nomination or election the expenditure is intended to influence.

An individual or association presumed under this paragraph to have made an expenditure that was not independent may rebut the presumption by an affidavit signed by the spender and filed with the board stating that the expenditure was made without the express or implied consent, authorization, or cooperation of, and not in concert with or at the request or suggestion of, any candidate or any candidate's principal campaign committee or agent, supported by any additional evidence the spender chooses to submit. The board may consider any additional evidence it deems relevant and material and must determine by a preponderance of the evidence whether the expenditure was independent.

(c) An expenditure by anyone other than a principal campaign committee that does not qualify as an independent expenditure under this subdivision is deemed to be an approved expenditure under subdivision 3.

Subd. 17. [LOAN.] "Loan" means an advance of money or anything of value made to a political committee, political fund, principal campaign committee, or party unit.

Subd. 18. [MAJOR POLITICAL PARTY.] "Major political party" means a major political party as defined in section 200.02, subdivision 7.

Subd. 19. [MINOR POLITICAL PARTY.] "Minor political party" means a minor political party as defined in section 200.02, subdivision 23.

Subd. 20. [NONCAMPAIGN DISBURSEMENT.] "Noncampaign disbursement" means a purchase or payment of money or anything of value made, or an advance of credit incurred, or a donation in kind received, by a principal campaign committee for any of the following purposes:

(1) payment for accounting and legal services;

(2) return of a contribution to the source;

(3) repayment of a loan made to the principal campaign committee by that committee;

(4) return of a public subsidy;

(5) payment for food, beverages, entertainment, and facility rental for a fundraising event;

(6) services for a constituent by a member of the legislature or a constitutional officer in the executive branch, performed from the beginning of the term of office to adjournment sine die of the legislature in the election year for the office held, and one-half the cost of services for a constituent by a member of the legislature or a constitutional officer in the executive branch performed from adjournment sine die to 60 days after adjournment sine die;

(7) payment for food and beverages provided to campaign volunteers while they are engaged in campaign activities;

(8) payment of expenses incurred by elected or appointed leaders of a legislative caucus in carrying out their leadership responsibilities;

(9) payment by a principal campaign committee of the candidate's expenses for serving in public office, other than for personal uses;

(10) costs of child care for the candidate's children when campaigning;

(11) fees paid to attend a campaign school;

(12) costs of a postelection party during the election year when a candidate's name will no longer appear on a ballot or the general election is concluded, whichever occurs first;

(13) interest on loans paid by a principal campaign committee on outstanding loans;

(14) filing fees;

(15) notes or advertisements in the news media expressing gratitude after the general election;

(16) the cost of campaign material purchased to replace defective campaign material, if the defective material is destroyed without being used;

(17) contributions to a party unit; and

(18) other purchases or payments specified in board rules or advisory opinions as being for any purpose other than to influence the nomination or election of a candidate or to promote or defeat a ballot question.

The board must determine whether an activity involves a noncampaign disbursement within the meaning of this subdivision.

A noncampaign disbursement is considered to be made in the year in which the candidate made the purchase of goods or services or incurred an obligation to pay for goods or services.

Subd. 21. [POLITICAL COMMITTEE.] "Political committee" means an association a major purpose of which is to influence the nomination or election of a candidate or to promote or defeat a ballot question, other than a principal campaign committee or a political party unit.

Subd. 22. [POLITICAL FUND.] "Political fund" means an accumulation of dues or voluntary contributions by an association other than a political committee, principal campaign committee, or party unit, if the accumulation is collected or expended to influence the nomination or election of a candidate or to promote or defeat a ballot question.

Subd. 23. [POLITICAL PARTY.] "Political party" means a major political party or a minor political party. A political party is the aggregate of all its political party units in this state.

Subd. 24. [POLITICAL PARTY UNIT OR PARTY UNIT.] "Political party unit" or "party unit" means the state committee or the party organization within a house of the legislature, congressional district, county, legislative district, municipality, or precinct.

Subd. 25. [POPULATION.] "Population" means the population established by the most recent federal census, by a special census taken by the United States Bureau of the Census, by an estimate made by the metropolitan council, or by an estimate made by the state demographer under section 4A.02, whichever has the latest stated date of count or estimate.

Subd. 26. [PRINCIPAL CAMPAIGN COMMITTEE.] "Principal campaign committee" means a principal campaign committee formed under section 10B.02.

Subd. 27. [STATE COMMITTEE.] "State committee" means the organization that, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of the political party at the state level.

Sec. 15. [10B.02] [PRINCIPAL CAMPAIGN COMMITTEE.]

Subdivision 1. [SINGLE COMMITTEE.] A candidate must not accept contributions from a source, other than self, in aggregate in excess of $100 or accept a public subsidy unless the candidate designates and causes to be formed a single principal campaign committee for each office sought. A candidate may not authorize, designate, or cause to be formed any other political committee bearing the candidate's name or title or otherwise operating under the direct or indirect control of the candidate. However, a candidate may be involved in the direct or indirect control of a party unit.

Subd. 2. [REPLACEMENT OF OFFICERS.] A candidate may at any time without cause remove and replace the chair, treasurer, deputy treasurer, or any other officer of the candidate's principal campaign committee.

Sec. 16. [10B.03] [ORGANIZATION OF COMMITTEES AND PARTY UNITS.]

Subdivision 1. [CHAIR AND TREASURER.] A political committee, principal campaign committee, or party unit must have a chair and a treasurer. The chair and treasurer may be the same individual.

Subd. 2. [TREASURER VACANCY.] A political committee, principal campaign committee, or party unit may not accept a contribution or make an expenditure or permit an expenditure to be made on its behalf while the office of treasurer is vacant.

Subd. 3. [DEPUTY TREASURERS.] The treasurer of a political committee, principal campaign committee, or party unit may appoint as many deputy treasurers as necessary and is responsible for their accounts.

Subd. 4. [DEPOSITORIES.] The treasurer of a political committee, principal campaign committee, or party unit may designate one or two depositories in each county in which a campaign is conducted.

Subd. 5. [COMMINGLING PROHIBITED.] A political committee, principal campaign committee, or party unit may not commingle its funds with personal funds of officers, members, or associates of the committee.

Subd. 6. [PENALTY.] A person who knowingly violates this section is subject to a civil penalty imposed by the board of up to $3,000.

Sec. 17. [10B.04] [POLITICAL FUNDS.]

Subdivision 1. [WHEN REQUIRED.] An association other than a political committee or party unit may not contribute more than $100 in aggregate in any one year to candidates, political committees, or party units or make any approved or independent expenditure or expenditure to promote or defeat a ballot question unless the contribution or expenditure is made from a political fund.

Subd. 2. [COMMINGLING PROHIBITED.] The contents of a political fund may not be commingled with other funds or with the personal funds of an officer or member of the fund.

Subd. 3. [TREASURER.] An association that has a political fund must elect or appoint a treasurer of the political fund.

Subd. 4. [TREASURER VACANCY.] A political fund may not accept a contribution or make an expenditure or contribution from the political fund while the office of treasurer of the political fund is vacant.

Subd. 5. [DUES OR MEMBERSHIP FEES.] An association may, if not prohibited by other law, deposit in its political fund money derived from dues or membership fees. Under section 10B.12, the treasurer of the fund must disclose the name of any member whose dues, membership fees, and contributions deposited in the political fund together exceed $100 in a year.

Subd. 6. [PENALTY.] A person who knowingly violates this section is subject to a civil penalty imposed by the board of up to $3,000.

Sec. 18. [10B.05] [CONDUIT FUNDS.]

Subdivision 1. [COMMINGLING PROHIBITED.] The contents of a conduit fund may not be commingled with other funds or with the personal funds of an officer or member of the fund.

Subd. 2. [TREASURER.] An association that has a conduit fund must elect or appoint a treasurer of the fund.

Subd. 3. [TREASURER VACANCY.] A conduit fund may not accept a contribution or make an expenditure or contribution from the fund while the office of treasurer of the fund is vacant.

Subd. 4. [PENALTY.] A person who knowingly violates this section is subject to a civil penalty imposed by the board of up to $3,000.

Sec. 19. [10B.06] [ACCOUNTS THAT MUST BE KEPT.]

Subdivision 1. [ACCOUNTS; PENALTY.] The treasurer of a political committee, political fund, conduit fund, principal campaign committee, or party unit must keep an account of:

(1) the sum of all contributions, except any donation in kind valued at $20 or less, made to the committee, fund, or party unit;

(2) the name and address of each source of a contribution made to the committee, fund, or party unit in excess of $20, together with the date and amount of each;

(3) each expenditure made by the committee, fund, or party unit, together with the date and amount;

(4) each approved expenditure made on behalf of the committee, fund, or party unit, together with the date and amount; and

(5) the name and address of each political committee, political fund, principal campaign committee, or party unit to which contributions in excess of $20 have been made, together with the date and amount.

A person who knowingly violates this subdivision is subject to a civil penalty imposed by the board of up to $3,000.

Subd. 2. [RECEIPTS.] The treasurer must obtain a receipted bill, stating the particulars, for every expenditure over $100 made by, or approved expenditure over $100 made on behalf of, the committee, fund, or party unit, and for any expenditure or approved expenditure in a lesser amount if the aggregate amount of lesser expenditures and approved expenditures made to the same individual or association during the same year exceeds $100.

Sec. 20. [10B.07] [REGISTRATION.]

Subdivision 1. [FIRST REGISTRATION.] The treasurer of a political committee, political fund, conduit fund, principal campaign committee, or party unit must register with the board by filing a statement of organization no later than 14 days after the committee, fund, or party unit has received contributions or made contributions or expenditures in excess of $100.

Subd. 2. [FORM.] The statement of organization must include:

(1) the name and address of the committee, fund, or party unit;

(2) the name and address of the chair of a political committee, principal campaign committee, or party unit;

(3) the name and address of any supporting association of a political fund or conduit fund;

(4) the name and address of the treasurer and any deputy treasurers and, for a principal campaign committee, any other individual authorized to accept contributions on behalf of the principal campaign committee;

(5) a listing of all depositories or safe deposit boxes used; and

(6) for the state committee of a political party only, a list of its party units.

Subd. 3. [FAILURE TO FILE; PENALTY.] The board must send a notice by certified mail to any individual who fails to file a statement required by this section. If the individual fails to file a

statement within ten business days after the notice was sent, the board may impose a late filing fee of $5 per day, not to exceed $100, commencing with the 11th day after the notice was sent.

The board must send an additional notice by certified mail to any individual who fails to file a statement within 14 days after the first notice was sent by the board that the individual may be subject to a civil penalty for failure to file the report. An individual who fails to file the statement within seven days after the second notice was sent by the board is subject to a civil penalty imposed by the board of up to $3,000.

Sec. 21. [10B.08] [CONTRIBUTIONS.]

Subdivision 1. [ANONYMOUS CONTRIBUTIONS.] A political committee, political fund, conduit fund, principal campaign committee, or party unit may not retain an anonymous contribution in excess of $20, but must forward it to the board for deposit in the general fund.

Subd. 2. [SOURCE; AMOUNT; DATE.] An individual who receives a contribution in excess of $20 for a political committee, political fund, conduit fund, principal campaign committee, or party unit must, on demand of the treasurer, inform the treasurer of the name and, if known, the address of the source of the contribution, the amount of the contribution, and the date it was received.

Subd. 3. [DEPOSIT.] All contributions received by or on behalf of a candidate, principal campaign committee, political committee, political fund, conduit fund, or party unit must be deposited in an account designated "Campaign Fund of ..... (name of candidate, committee, fund, or party unit)." All contributions must be deposited promptly upon receipt and, except for contributions received during the last three days of a reporting period as described in section 10B.12, must be deposited during the reporting period in which they were received. A contribution received during the last three days of a reporting period must be deposited within 72 hours after receipt and must be reported as received during the reporting period whether or not it was deposited within that period. A candidate, principal campaign committee, political committee, political fund, conduit fund, or party unit may refuse to accept a contribution. A deposited contribution may be returned to the contributor within 60 days after deposit. A contribution deposited and not returned within 60 days after that deposit must be reported as accepted.

Subd. 4. [EXCESS.] A treasurer of a principal campaign committee of a candidate may not deposit a contribution that on its face exceeds the limit on contributions to the candidate prescribed by section 10B.13 unless, at the time of deposit, the treasurer issues a check to the source for the amount of the excess.

Subd. 5. [ATTRIBUTABLE CONTRIBUTIONS.] Contributions made to a candidate or principal campaign committee that are directed to the candidate or principal campaign committee by a political fund, committee, or party unit must be reported as attributable to the political fund, committee, or party unit and count toward the contribution limits of that fund, committee, or political party specified in section 10B.13, if the fund, committee, or party was organized or is operated primarily to direct contributions other than from its own money to one or more candidates or principal campaign committees. The treasurer of the political fund, committee, or party unit must advise the candidate or the candidate’s principal campaign committee if the contribution or contributions are not from the money of the fund, committee, or party unit and the original source of the money. As used in this subdivision, "direct" includes, but is not limited to, order, command, control, or instruct. A violation of this subdivision is a violation of section 10B.15.

Subd. 6. [RELATED COMMITTEES.] An individual, association, political committee, political fund, or party unit may establish, finance, maintain, or control a political committee, political fund, or party unit. One who does this is a "parent." The political committee, fund, or party unit so established, financed, maintained, or controlled is a "subsidiary." If the parent is an association, the association must create a political committee or political fund to serve as the parent for reporting purposes. A subsidiary must report its contribution to a candidate or principal campaign committee as attributable to its parent, and the contribution is counted toward the contribution limits in section 10B.13 of the parent as well as of the subsidiary.

Subd. 7. [PENALTY.] A person who knowingly violates this section is subject to a civil penalty imposed by the board of up to $3,000.

Subd. 8. [REGISTRATION NUMBER ON CHECKS.] A contribution made to a candidate by a lobbyist, political committee, political fund, conduit fund, or party unit must show the name of the lobbyist, political committee, political fund, conduit fund, or party unit and the number under which it is registered with the board.

Sec. 22. [10B.09] [EARMARKING CONTRIBUTIONS PROHIBITED.]

An individual, political committee, political fund, principal campaign committee, or party unit may not solicit or accept a contribution from any source with the express or implied condition that the contribution or any part of it be directed to a particular candidate other than the initial recipient. A person who knowingly accepts an earmarked contribution is guilty of a gross misdemeanor and subject to a civil penalty imposed by the board of up to $3,000.

Sec. 23. [10B.10] [EXPENDITURES.]

Subdivision 1. [AUTHORIZATION.] A political committee, political fund, conduit fund, principal campaign committee, or party unit may not expend money unless the expenditure is authorized by the treasurer or deputy treasurer of that committee, fund, or party unit.

Subd. 2. [WRITTEN AUTHORIZATION.] An individual or association may not make an approved expenditure of more than $20 without receiving written authorization from the treasurer of the principal campaign committee of the candidate who approved the expenditure stating the amount that may be spent and the purpose of the expenditure.

Subd. 3. [PETTY CASH.] The treasurer or deputy treasurer of a political committee, principal campaign committee, or party unit may sign vouchers for petty cash of up to $100 per week for statewide elections or $20 per week for legislative elections, to be used for miscellaneous expenditures.

Subd. 4. [PERSONAL LOANS.] A principal campaign committee, political committee, political fund, or party unit may not lend money it has raised to anyone for purposes not related to the conduct of a campaign.

Subd. 5. [INDEPENDENT EXPENDITURES.] An individual, political committee, political fund, principal campaign committee, or party unit that independently solicits or accepts contributions or makes independent expenditures on behalf of a candidate must publicly disclose that the expenditure is an independent expenditure. All written communications with those from whom contributions are independently solicited or accepted or to whom independent expenditures are made on behalf of a candidate must contain a statement in conspicuous type that the activity is an independent expenditure and is not approved by the candidate nor is the candidate responsible for it. Similar language must be included in all oral communications, in conspicuous type on the front page of all literature and advertisements published or posted, and at the end of all broadcast advertisements made by that individual, political committee, political fund, principal campaign committee, or party unit on the candidate's behalf.

Subd. 6. [PENALTY.] A person who knowingly violates subdivision 2 is subject to a civil penalty imposed by the board of up to $3,000.

Sec. 24. [10B.11] [TIME FOR RENDERING BILLS, CHARGES, OR CLAIMS; PENALTY.]

A person who has a bill, charge, or claim against a political committee, political fund, principal campaign committee, or party unit for an expenditure must render in writing to the treasurer of the committee, fund, or party unit the bill, charge, or claim within 60 days after the material or service is provided. A person who knowingly violates this section is subject to a civil penalty imposed by the board of up to $3,000.

Sec. 25. [10B.12] [CAMPAIGN REPORTS.]

Subdivision 1. [FIRST FILING; DURATION.] The treasurer of a political committee, political fund, conduit fund, principal campaign committee, or party unit must begin to file the reports required by this section in the first year it receives contributions or makes contributions or expenditures in excess of $100 and must continue to file until the committee, fund, or party unit is terminated. If the position of treasurer of a principal campaign committee, political committee, political fund, or party unit is vacant, the candidate, chair of a political committee or party unit, or association officer of a political fund is responsible for filing reports required by this section.

Subd. 2. [TIME FOR FILING.] (a) The reports must be filed with the board on or before January 31 of each year and additional reports must be filed as required and in accordance with paragraphs (b) to (d).

(b) In each year in which the name of the candidate is on the ballot, the reports of the principal campaign committee must be filed by April 30, July 31, and November 30, and 15 days before a primary and ten days before a general election, seven days before a special primary and a special election, and ten days after a special election cycle.

(c) In each general election year, a political committee, political fund, conduit fund, or party unit must file reports by April 30, July 31, and November 30, and 15 days before a primary and ten days before a general election.

(d) A political committee, political fund, conduit fund, or party unit that makes contributions or expenditures related to a special election must file reports on the contributions or expenditures seven days before the special primary and special election and ten days after the special election cycle.

Subd. 3. [ELECTRONIC FILING; PUBLICATION.] When contributions or expenditures exceed $5,000 in a year, the report must be filed with the board in an electronic format approved by the board. Regardless of whether the report is filed electronically, the board must publish the report on its Web site within seven days after the date it was due. The publication must be in a form that permits a user of the Web site to search the reports and prepare comparisons and cross-tabulations among the various candidates, contributors, vendors, and committees.

Subd. 4. [CONTENTS OF REPORT; POLITICAL COMMITTEES AND POLITICAL FUNDS.] (a) The report by a political committee or political fund must disclose the amount of liquid assets on hand at the beginning of the reporting period.

(b) The report must disclose the name, address, and employer, or occupation if self-employed, of each individual or association that has made one or more contributions to the reporting entity, including the purchase of tickets for a fundraising effort, that in aggregate within the year exceed $50, together with the amount and date of each contribution, and the aggregate amount of contributions within the year from each source so disclosed. A donation in kind must be disclosed at its fair market value. An approved expenditure must be listed as a donation in kind. A donation in kind is considered consumed in the reporting period in which it is received. The names of contributors must be listed in alphabetical order. Contributions from the same contributor must be listed under the same name. When a contribution received from a contributor in a reporting period is added to previously reported unitemized contributions from the same contributor and the aggregate exceeds the disclosure threshold of this paragraph, the name, address, and employer, or occupation if self-employed, of the contributor must then be listed on the report.

(c) The report must disclose the sum of contributions to the reporting entity and the sum of all contributions received through each conduit fund and through all conduit funds during the reporting period. The report must include the name and registration number of each conduit fund from which a contribution was received.

(d) The report must disclose each loan made or received by the reporting entity within the year in aggregate in excess of $50, continuously reported until repaid or forgiven, together with the name, address, occupation, and principal place of business, if any, of the lender and any endorser, and the date and amount of the loan. If a loan made to the principal campaign committee of a candidate is forgiven or is repaid by an entity other than that principal campaign committee, it must be reported as a contribution for the year in which the loan was made.

(e) The report must disclose each receipt over $50 during the reporting period not otherwise listed under paragraphs (b) to (d).

(f) The report must disclose the sum of all receipts of the reporting entity during the reporting period.

(g) The report must disclose the name and address of each individual or association to whom aggregate expenditures, including approved expenditures, have been made by or on behalf of the reporting entity within the year in excess of $100, together with the amount, date, and purpose of each expenditure and the name and address of, and office sought by, each candidate on whose behalf the expenditure was made, identification of the ballot question that the expenditure was intended to promote or defeat, and in the case of independent expenditures made in opposition to a candidate, the candidate's name, address, and office sought. A reporting entity making an expenditure on behalf of more than one candidate for state or legislative office must allocate the expenditure among the candidates on a reasonable cost basis and report the allocation for each candidate.

(h) The report must disclose the sum of all expenditures made by or on behalf of the reporting entity during the reporting period.

(i) The report must disclose the amount and nature of an advance of credit incurred by the reporting entity, continuously reported until paid or forgiven. If an advance of credit incurred by the principal campaign committee of a candidate is forgiven by the creditor or paid by an entity other than that principal campaign committee, it must be reported as a donation in kind for the year in which the advance of credit was made.

(j) The report must disclose the name and address of each political committee, political fund, principal campaign committee, or party unit to which contributions have been made that aggregate in excess of $100 within the year and the amount and date of each contribution.

(k) The report must disclose the sum of all contributions made by the reporting entity during the reporting period.

(l) The report must disclose the name and address of each individual or association to whom noncampaign disbursements have been made that aggregate in excess of $100 within the year by or on behalf of the reporting entity and the amount, date, and purpose of each noncampaign disbursement.

(m) The report must disclose the sum of all noncampaign disbursements made within the year by or on behalf of the reporting entity.

(n) The report must disclose the name and address of a nonprofit corporation that provides administrative assistance to a political committee or political fund as authorized by section 211B.15, subdivision 17, the type of administrative assistance provided, and the aggregate fair market value of each type of assistance provided to the political committee or political fund during the reporting period.

Subd. 5. [CONTENTS OF REPORT; CONDUIT FUNDS.] A report by a conduit fund under this section must disclose the sum of all contributions received by the fund and the sum of all contributions made to each political committee, political fund, principal campaign committee, or party unit and to all of them together during the reporting period. The report must include the registration number of each recipient of contributions from the conduit fund.

Subd. 6. [PERIOD OF REPORT.] A report must cover the period from the last day covered by the previous report to seven days before the filing date, except that the report due on January 31 must cover the period from the last day covered by the previous report to December 31.

Subd. 7. [REPORT OF EXCESS CONTRIBUTIONS.] (a) The treasurer of the principal campaign committee of a candidate who has not signed a spending limit agreement under section 10B.20 must file with the board within seven days after the committee has received aggregate contributions in excess of the expenditure limit for any participating opponent of the candidate a

report disclosing the sum of the excess contributions. The treasurer must file an additional report each Monday if the committee received additional contributions during the week ending the previous Friday.

(b) During the last three weeks before the primary election, during the last three weeks before the general election, and during the last two weeks before a special primary or special election, the treasurer must file the report within 48 hours after the aggregate contributions received since the last report exceed the limit for a single contribution to the candidate.

Subd. 8. [REPORT WHEN NO COMMITTEE.] A candidate who does not designate and cause to be formed a principal campaign committee and an individual who makes independent expenditures or expenditures expressly advocating the approval or defeat of a ballot question in aggregate in excess of $100 in a year must file with the board a report containing the information required by subdivision 4. Reports required by this subdivision must be filed on the dates on which reports by committees, funds, and party units are filed.

Subd. 9. [AFFIDAVIT OF INDEPENDENCE.] An individual, political committee, political fund, or party unit filing a report or statement disclosing an independent expenditure under subdivision 4, 8, or 10 must file with the report an affidavit naming the candidate whose nomination, election, or defeat the independent expenditure was intended to advocate and stating that the disclosed expenditures were not made with the authorization or expressed or implied consent of, or in cooperation or in concert with, or at the request or suggestion of any candidate or any candidate's principal campaign committee or agent.

Subd. 10. [INDEPENDENT EXPENDITURES; NOTICE; REPORT.] (a) Within 48 hours after an individual, political committee, political fund, or party unit causes to be disseminated a communication that has been or will be paid for in whole or in part by one or more independent expenditures that in aggregate within the election cycle exceed $500, the individual, political committee, political fund, or party unit must file with the board a notice of the intent to make the independent expenditure. The notice must contain the information with respect to the expenditures that is required to be reported under subdivision 4, paragraph (g), except that if an expenditure is reported before it is made, the notice must include a reasonable estimate of the anticipated amount. Each additional expenditure requires a new notice.

(b) During the last seven days before the primary, general election, special primary, or special election, the notice must be filed within 24 hours after the communication is disseminated.

(c) An individual or association may file a complaint with the board that a required notice was not filed or that a notice filed under this subdivision was false. The board must determine the complaint promptly. If the board determines that a notice was false and the board has distributed a public subsidy to a candidate based on the false notice, the candidate must return the subsidy to the board.

(d) An individual or association that has made an independent expenditure of which notice was required under this subdivision must include in its January 31 report to the board a description of the content of the communication for which the expenditure was made, including a copy of any printed advertisement or a transcript of any broadcast advertisement. If the advertisement was printed or broadcast more than once in the same form, the description must include a list of the date, time, and location of each printing or broadcast. If the advertisement was printed or broadcast in substantially the same form for more than one candidate, the description need include only a copy of the standard form, a description of the content that was different for different candidates, and a list of the candidates on whose behalf it was printed or broadcast. A complaint alleging a violation of this paragraph must be brought no later than three months after the report was due.

Subd. 11. [STATEMENT OF INACTIVITY.] If a reporting entity has no receipts or expenditures during a reporting period, the treasurer must file with the board at the time required by this section a statement to that effect.

Subd. 12. [EXEMPTION FROM DISCLOSURE.] The board must exempt a member of or

contributor to an association, or any other individual, from the requirements of this section if the member, contributor, or other individual demonstrates by clear and convincing evidence that disclosure would expose the member or contributor to economic reprisals, loss of employment, or threat of physical coercion.

An association may seek an exemption for all of its members or contributors if it demonstrates by clear and convincing evidence that a substantial number of its members or contributors would suffer a restrictive effect on their freedom of association if members were required to seek exemptions individually.

Subd. 13. [EXEMPTION PROCEDURE.] An individual or association seeking an exemption under subdivision 12 must submit a written application for exemption to the board. The board, without hearing, must grant or deny the exemption within 30 days after receiving the application and must issue a written order stating the reasons for its action. The board must publish its order in the State Register and give notice to all parties known to the board to have an interest in the matter. If the board receives a written objection to its action from any party within 20 days after publication of its order and notification of interested parties, the board must hold a contested case hearing on the matter. Upon the filing of a timely objection from the applicant, an order denying an exemption is suspended pending the outcome of the contested case. If no timely objection is received, the exemption continues in effect until a written objection is filed with the board in a succeeding election year. The board must adopt rules establishing a procedure so that an individual seeking an exemption may proceed anonymously if the individual would be exposed to the reprisals listed in subdivision 12 if the individual's identity were to be revealed for the purposes of the notice or a hearing.

Subd. 14. [FAILURE TO FILE; PENALTY.] The board must notify by certified mail an individual who fails to file a report required by this section. If an individual fails to file a report due January 31 within ten business days after the notice was mailed, the board may impose a late filing fee of $10 per day, not to exceed $500, commencing on the 11th day after the notice was mailed. If an individual fails to file any other report due during an election year within three days after the date due, regardless of whether the individual has received any notice, the board may impose a late filing fee of $50 per day, not to exceed $500, commencing on the fourth day after the date the report was due.

The board must send an additional notice by certified mail to an individual who fails to file a statement within 14 days after the first notice was sent by the board that the individual may be subject to a civil penalty for failure to file a statement. An individual who fails to file the statement within seven days after the second notice was sent by the board is subject to a civil penalty imposed by the board of up to $3,000.

Subd. 15. [THIRD-PARTY REIMBURSEMENT.] An individual or association filing a report disclosing an expenditure or noncampaign disbursement that must be reported and itemized under subdivision 4, paragraph (g) or (l), that is a reimbursement to a third party must report the purpose of each expenditure or disbursement for which the third party is being reimbursed. An expenditure or disbursement is a reimbursement to a third party if it is for goods or services that were not directly provided by the individual or association to whom the expenditure or disbursement is made. Third-party reimbursements include payments to credit card companies and reimbursement of individuals for expenses they have incurred.

Subd. 16. [REPORTS BY SOLICITORS.] An individual or association, other than a candidate or the members of a candidate's principal campaign committee, that directly solicits and causes others to make contributions to candidates or a party unit in a house of the legislature, that aggregate more than $5,000 between January 1 of a general election year and the end of the reporting period must file with the board a report disclosing the amount of each contribution, the names of the contributors, and to whom the contributions were given. The report must be filed 15 days before a primary and ten days before a general election. The report for each calendar year must be filed with the board by January 31 of the following year.

Subd. 17. [EQUITABLE RELIEF.] A candidate whose opponent does not timely file the report due 15 days before the primary, the report due ten days before the general election, or the notice

required under section 10B.17, subdivision 6, may petition the district court for immediate equitable relief to enforce the filing requirement. A prevailing party under this subdivision may be awarded attorney fees and costs by the court.

Sec. 26. [10B.13] [CONTRIBUTION LIMITS.]

Subdivision 1. [CONTRIBUTION LIMITS.] (a) Except as provided in paragraph (b), a candidate must not permit the candidate's principal campaign committee to accept aggregate contributions made or delivered by an individual, political committee, or political fund in excess of the following:

(1) to candidates for governor and lieutenant governor running together, $2,000 in an election cycle;

(2) to a candidate for attorney general, secretary of state, or state auditor, $1,000 in an election cycle;

(3) to a candidate for state senator, $500 in an election cycle; and

(4) to a candidate for state representative, $500 in an election cycle.

(b) A candidate who accepts a public subsidy must not permit the candidate's principal campaign committee to accept aggregate contributions made or delivered by an individual, political committee, or political fund in excess of $50 in an election cycle.

(c) The following deliveries are not subject to the bundling limitation in this subdivision:

(1) delivery of contributions collected by a member of the candidate's principal campaign committee who was registered with the board to accept contributions on behalf of the committee before the contributions were accepted; and

(2) a delivery made by an individual on behalf of the individual's spouse.

(d) A political committee or political fund must not make a contribution a candidate is prohibited from accepting.

Subd. 2. [POLITICAL PARTY LIMIT.] (a) A participating candidate must not permit the candidate's principal campaign committee to accept contributions, including approved expenditures, from any political party units in aggregate in excess of 25 percent of the portion of the candidate's spending limit set forth in section 10B.17, subdivision 2, paragraph (a), clauses (1) to (4).

(b) A nonparticipating candidate must not permit the candidate's principal campaign committee to accept contributions, including approved expenditures, from any political party units in aggregate in excess of ten times the amount that may be contributed to that candidate under subdivision 1.

Subd. 3. [EXCESS LOANS PROHIBITED.] A candidate must not permit the candidate's principal campaign committee to accept a loan from other than a financial institution for an amount in excess of the contribution limits imposed by this section. A candidate must not permit the candidate's principal campaign committee to accept a loan from a financial institution for which the financial institution may hold an endorser of the loan liable to pay an amount in excess of the amount that the endorser may contribute to that candidate.

Subd. 4. [CONTRIBUTIONS TO AND FROM OTHER CANDIDATES.] (a) A candidate or the treasurer of a candidate's principal campaign committee must not accept a contribution from another candidate's principal campaign committee or from any other committee bearing the contributing candidate's name or title or otherwise authorized by the contributing candidate, unless the contributing candidate's principal campaign committee is being dissolved. A candidate's principal campaign committee must not make a contribution to another candidate's principal campaign committee, except when the contributing committee is being dissolved. A

contribution from a dissolving principal campaign committee is subject to the same limitations as are imposed on a political committee by subdivisions 1 and 6 and section 10B.14, except that there is no limit on the amount that may be transferred from the dissolving principal campaign committee of a candidate for the legislature to another principal campaign committee of the same candidate. A principal campaign committee that makes a contribution to another principal campaign committee must provide with the contribution a written statement of the committee's intent to dissolve and terminate its registration within 12 months after the contribution was made. If the committee fails to dissolve and terminate its registration by that time, the board may levy a civil penalty up to four times the size of the contribution against the contributing committee. A contribution from a terminating principal campaign committee that is not accepted by another principal campaign committee must be forwarded to the board for deposit in the state treasury and credit to the general fund.

(b) A candidate's principal campaign committee must not accept a contribution from, or make a contribution to, a committee associated with a person who seeks nomination or election to the office of president, senator, or representative in Congress of the United States.

(c) A candidate or the treasurer of a candidate's principal campaign committee must not accept a contribution from a candidate for political subdivision office in any state, unless the contribution is from the personal funds of the candidate for political subdivision office. A candidate or the treasurer of a candidate's principal campaign committee must not make a contribution from the principal campaign committee to a candidate for political subdivision office in any state.

Subd. 5. [LIMITED PERSONAL CONTRIBUTIONS.] A participating candidate may not contribute to the candidate's own campaign more than $500 in an election cycle.

Subd. 6. [CONTRIBUTIONS FROM CERTAIN TYPES OF CONTRIBUTORS.] A candidate must not permit the candidate's principal campaign committee to accept a contribution from a political committee, political fund, lobbyist, or large contributor, if the contribution will cause the aggregate contributions from those types of contributors to exceed an amount equal to 20 percent of the expenditure limits for the office sought by the candidate, provided that the 20 percent limit must be rounded to the nearest $100. For purposes of this subdivision, "large contributor" means an individual, other than the candidate, who contributes an amount that is more than $100 and more than one-half the amount an individual may contribute.

Subd. 7. [UNREGISTERED ASSOCIATION LIMIT; STATEMENT; PENALTY.] (a) The treasurer of a political committee, political fund, principal campaign committee, or party unit must not accept a contribution of more than $100 from an association not registered under this chapter unless the contribution is accompanied by a written statement that meets the disclosure and reporting period requirements imposed by section 10B.12. This statement must be certified as true and correct by an officer of the contributing association. The committee, fund, or party unit that accepts the contribution must include a copy of the statement with the report that discloses the contribution to the board.

(b) An unregistered association may provide the written statement required by this subdivision to no more than three committees, funds, or party units in a calendar year. Each statement must cover at least the 30 days immediately preceding and including the date on which the contribution was made. An unregistered association or an officer of it is subject to a civil penalty imposed by the board of up to $3,000 if the association or its officer:

(1) fails to provide a written statement as required by this subdivision; or

(2) fails to register after giving the written statement required by this subdivision to more than three committees, funds, or party units in a calendar year.

(c) The treasurer of a political committee, political fund, principal campaign committee, or party unit who accepts a contribution in excess of $100 from an unregistered association without the required written disclosure statement is subject to a civil penalty up to four times the amount in excess of $100.

Subd. 8. [CONTRIBUTIONS TO POLITICAL COMMITTEES OR FUNDS.] The treasurer of a political committee or political fund must not permit the political committee or political fund to accept aggregate contributions from an individual in an amount more than $1,000 in a calendar year or from another political committee or political fund in any amount.

Subd. 9. [CONTRIBUTIONS TO POLITICAL PARTIES.] (a) An individual or association must not give and the treasurer of the state committee of a political party must not permit the political party to accept aggregate contributions for any purpose from an individual, or from an association that makes contributions to candidates, in an amount more than $10,000 in an election cycle.

(b) A political party unit may not accept a transfer from its national party organization, nor from a party unit in any other state, unless the transfer is from a separate and segregated fund that contains only contributions from individuals and associations that would have been permitted under the law of this state if they had been made directly to the political party unit.

Subd. 10. [AGGREGATE LIMIT ON INDIVIDUALS.] An individual may not contribute more than $10,000 in aggregate contributions for any purpose to all candidates, political parties, political committees, and political funds in an election cycle.

Sec. 27. [10B.14] [CONTRIBUTIONS AND SOLICITATIONS DURING LEGISLATIVE SESSION.]

Subdivision 1. [CONTRIBUTIONS DURING LEGISLATIVE SESSION.] (a) A candidate for the legislature or for constitutional office, the candidate's principal campaign committee, or a political committee or party unit established by all or a part of the party organization within a house of the legislature, must not solicit or accept a contribution from a registered lobbyist, political committee, or political fund, or from a party unit established by the party organization within a house of the legislature, during a regular session of the legislature.

(b) A registered lobbyist, political committee, or political fund, or a party unit established by the party organization within a house of the legislature, must not make a contribution to a candidate for the legislature or for constitutional office, the candidate's principal campaign committee, or a political committee or party unit established by all or a part of the party organization within a house of the legislature during a regular session of the legislature.

Subd. 2. [PARTY UNIT SOLICITATIONS.] A political party unit must not solicit or receive at an event hosted by a candidate for the legislature or by a candidate for constitutional office a contribution from a lobbyist, political committee, political fund, or party unit during a regular session of the legislature.

Subd. 3. [DEFINITION.] For purposes of this section, "regular session" does not include a special session or the interim between the two annual sessions of a biennium.

Subd. 4. [CIVIL PENALTY.] A candidate, political committee, party unit, political fund, or registered lobbyist that violates this section is subject to a civil penalty imposed by the board of up to $3,000. If the board makes a public finding that there is probable cause to believe a violation of this section has occurred, the board must bring an action, or transmit the finding to a county attorney who must bring an action, in the district court of Ramsey county, to collect the civil penalty as imposed by the board. Penalties paid under this section must be deposited in the general fund in the state treasury.

Subd. 5. [SPECIAL ELECTION.] This section does not apply to a candidate or a candidate's principal campaign committee in a legislative special election during the period beginning when the person becomes a candidate in the special election and ending on the day of the special election.

Sec. 28. [10B.15] [CIRCUMVENTION PROHIBITED.]

An individual or association that attempts to circumvent this chapter by redirecting a contribution through, or making a contribution on behalf of, another individual or association is guilty of a gross misdemeanor and subject to a civil penalty imposed by the board of up to $3,000.

Sec. 29. [10B.16] [POLITICAL CONTRIBUTION REFUND.]

Subdivision 1. [DEFINITIONS.] (a) The definitions in this subdivision apply to this section.

(b) "Candidate" means a candidate as defined in section 10B.01, subdivision 8, except a candidate for judicial office.

(c) "Contribution" means a gift of money.

(d) "Political party" has the meaning given it in section 10B.01, subdivision 23.

(e) "Party unit" has the meaning given it in section 10B.01, subdivision 24.

Subd. 2. [CLAIM; RECEIPT FORM.] (a) A taxpayer may claim a refund equal to the amount of the taxpayer's contributions made in the calendar year to a political party or party unit, if the state chair of the political party has signed and filed with the board an agreement not to make independent expenditures as provided in section 10B.20. The refund for an individual must not exceed $50 and for a married couple, filing jointly, must not exceed $100.

(b) A refund of a contribution is allowed only if the taxpayer files a form required by the commissioner of revenue and attaches to the form a copy of an official refund receipt form issued by the party and signed by the party chair, after the contribution was received. For a taxpayer who files a claim for refund via the Internet or other electronic means, the commissioner may accept the number on the official receipt as documentation that a contribution was made rather than the actual receipt. The board must make available to a political party as defined in subdivision 3, on request, a supply of official refund receipt forms that state in boldface type that a contributor who is given a receipt form is eligible to claim a refund as provided in this section and that the political party has signed an agreement not to make independent expenditures. The forms must provide duplicate copies of the receipt to be attached to the contributor's claim. The receipt forms must be numbered, and the data on the receipt that are not public must be made available to the board upon its request. A party unit must return to the board with its termination report or destroy any official receipt forms that have not been issued.

(c) If the state chair of a political party has not signed an agreement under section 10B.20 and the chair or treasurer of a party unit willfully issues an official refund receipt form or a facsimile of one to any of the party's contributors, the issuer of the receipt is guilty of a misdemeanor.

(d) A claim must be filed with the commissioner of revenue no sooner than January 1 of the calendar year in which the contribution was made and no later than April 15 of the calendar year following the calendar year in which the contribution was made. A taxpayer may file only one claim per calendar year. Amounts paid by the commissioner after June 15 of the calendar year following the calendar year in which the contribution was made must include interest at the rate specified in section 270.76.

Subd. 3. [COPIES OF FORM.] The commissioner shall make copies of the form available to political party units upon request.

Subd. 4. [DATA PRIVACY.] The following data collected or maintained by the commissioner under this subdivision are private: the identities of individuals claiming a refund and the amount of each contribution.

Subd. 5. [REPORT.] The commissioner shall report to the campaign finance and public disclosure board by each August 1 a summary showing the total number and aggregate amount of political contribution refunds made on behalf of each political party. These data are public.

Subd. 6. [APPROPRIATION.] The amount necessary to pay claims for the refund provided in this section is appropriated from the general fund to the commissioner of revenue.

Sec. 30. [10B.17] [SPENDING LIMITS.]

Subdivision 1. [LIMITS ARE VOLUNTARY.] The expenditure limits imposed by this section

on a candidate apply only to a candidate who has signed an agreement under section 10B.20 to be bound by them as a condition of receiving a public subsidy for the candidate's campaign. The prohibition imposed by this section on a political party applies only to a political party that has signed an agreement under section 10B.20 to be bound by it as a condition of receiving a public subsidy for the party's activities.

Subd. 2. [AMOUNTS.] (a) Except as provided in section 10B.13, subdivision 2, paragraph (a), and in paragraphs (b) and (d) of this subdivision, the principal campaign committee of a candidate must not make campaign expenditures nor permit approved expenditures to be made on behalf of the candidate during an election cycle that result in aggregate expenditures in excess of the following:

(1) for governor and lieutenant governor, running together, $1,520,000;

(2) for attorney general, secretary of state, and state auditor, separately, $300,000;

(3) for state senator, $37,000; and

(4) for state representative, $18,500.

(b) In addition to the amount in paragraph (a), the principal campaign committee of a candidate may make expenditures during an election cycle and before the candidate files an affidavit of qualifying contributions under section 10B.21 in the following amounts:

(1) for governor and lieutenant governor, running together, $50,000;

(2) for attorney general, secretary of state, and state auditor, separately, $25,000;

(3) for state senator, $8,000; and

(4) for state representative, $4,000.

(c) If a special election cycle occurs during a general election cycle, expenditures by or on behalf of a candidate in the special election do not count as expenditures by or on behalf of the candidate in the general election.

(d) The expenditure limits in this subdivision for an office are increased by ten percent for a candidate who is running for that office for the first time and who has not run previously for any other office whose territory now includes a population that is more than one-third of the population in the territory of the new office.

Subd. 3. [AGGREGATED EXPENDITURES.] If a candidate makes expenditures from more than one principal campaign committee for nomination or election to statewide office in the same election cycle, the amount of expenditures from all of the candidate's principal campaign committees for statewide office for that election cycle must be aggregated for purposes of applying the limits on expenditures under subdivision 2.

Subd. 4. [GOVERNOR AND LIEUTENANT GOVERNOR AS A SINGLE CANDIDATE.] For the purposes of this chapter, a candidate for governor and a candidate for lieutenant governor, running together, are considered a single candidate. All expenditures made by or all approved expenditures made on behalf of the candidate for lieutenant governor are considered to be expenditures by or approved expenditures on behalf of the candidate for governor.

Subd. 5. [INDEPENDENT EXPENDITURES.] The principal campaign committee of a candidate must not make independent expenditures.

Subd. 6. [RELEASE FROM EXPENDITURE LIMITS.] (a) After the deadline for filing a spending limit agreement under section 10B.20, a candidate who has agreed to be bound by the expenditure limits imposed by this section as a condition of receiving a public subsidy for the candidate's campaign may choose to be released from the expenditure limits but remain eligible to receive a public subsidy if the candidate has an opponent who has not agreed to be bound by the limits and who has received contributions during that election cycle in excess of the sum of:

(1) the amounts listed in subdivision 2, paragraph (b), that the candidate is allowed to spend before filing an affidavit of contributions;

(2) the limit set in section 10B.13, subdivision 2, paragraph (a), for contributions from political party units to the candidate; and

(3) the public subsidy the participating candidate has received through that part of the election cycle.

Before the primary election, a candidate's "opponents" are only those who will appear on the ballot of the same party in the primary election.

(b) A candidate who has not agreed to be bound by expenditure limits, or the candidate's principal campaign committee, must file written notice with the board and provide written notice to any opponent of the candidate for the same office within seven days after exceeding the limit in paragraph (a). The notice must state only that the candidate or candidate's principal campaign committee has received contributions in excess of the limit in paragraph (a).

(c) Upon receipt of the notice, the candidate who had agreed to be bound by the limits may file with the board a notice that the candidate chooses to be no longer bound by the expenditure limits. A notice of a candidate's choice not to be bound by the expenditure limits that is based on the conduct of an opponent in the state primary election may not be filed more than one day after the state canvassing board has declared the results of the state primary.

(d) A candidate who has agreed to be bound by the expenditure limits imposed by this section and whose opponent in the general election has chosen, as provided in paragraph (c), not to be bound by the expenditure limits because of the conduct of an opponent in the primary election is no longer bound by the limits but remains eligible to receive a public subsidy.

Subd. 7. [INDEPENDENT EXPENDITURES BY POLITICAL PARTIES.] (a) A political party or party unit must not make an independent expenditure.

(b) A political party that has agreed not to make independent expenditures as a condition of receiving a public subsidy is released from the prohibition but remains eligible to receive a public subsidy if a political party that has not agreed to the prohibition makes an independent expenditure during that election cycle.

(c) A political party that has not agreed to the prohibition in this subdivision must file written notice with the board and serve written notice on every other political party within 24 hours after making an independent expenditure. The notice must state only that the political party has made an independent expenditure. Upon receipt of the notice, the political party that agreed to the prohibition is no longer subject to the prohibition but remains eligible to receive a public subsidy.

Sec. 31. [10B.18] [ADJUSTMENT BY CONSUMER PRICE INDEX.]

Subdivision 1. [METHOD OF CALCULATION.] The dollar amounts in section 10B.17, subdivision 2, must be adjusted for general election years as provided in this section. In the year before each general election year, the executive director of the board must determine the percentage increase in the Consumer Price Index from December of the second preceding general election year to December of the last general election year. The dollar amounts used for the preceding general election year must be multiplied by that percentage. The product of the calculation, rounded up to the next highest $100 increment, must be added to each dollar amount to produce the dollar limitations to be in effect for the next general election. The index used must be the revised Consumer Price Index for all urban consumers for the St. Paul-Minneapolis metropolitan area prepared by the United States Department of Labor.

Subd. 2. [PUBLICATION OF EXPENDITURE LIMIT.] By April 1 of the year before each election year the board must publish in the State Register the expenditure limit for each office for that calendar year under section 10B.17 as adjusted by this section. The revisor of statutes must code the adjusted amounts in the next edition of Minnesota Statutes.

Sec. 32. [10B.19] [MULTICANDIDATE POLITICAL PARTY EXPENDITURES.]

Notwithstanding other provisions of this chapter, the following expenditures by a party unit, or two or more party units acting together, with at least one party unit being either the state committee or the party organization within a congressional district, county, or legislative district, are not considered contributions to or expenditures on behalf of a candidate for the purposes of section 10B.13 or 10B.17 and must not be allocated to candidates under section 10B.12, subdivision 4, paragraph (g):

(1) expenditures not on behalf of any candidate;

(2) expenditures on behalf of candidates of that party generally without referring to any of them specifically by name or image in a published, posted, or broadcast advertisement; or

(3) expenditures for the preparation, display, mailing, or other distribution of an official party sample ballot listing the names of three or more individuals whose names are to appear on the ballot.

Sec. 33. [10B.20] [SPENDING LIMIT AGREEMENT.]

Subdivision 1. [AGREEMENT BY CANDIDATE.] (a) As a condition of receiving a public subsidy, a candidate must sign and file with the board a written agreement in which the candidate agrees that the candidate will comply with sections 10B.13, subdivisions 1, 2, and 5; 10B.17; and 10B.23.

(b) Before the first day of filing for office, the board must forward agreement forms to all filing officers. The board must also provide agreement forms to candidates on request at any time. The candidate must file the agreement with the board no sooner than January 1 in the general election year and no later than the day after the candidate files the affidavit of candidacy for the office. An agreement may not be filed with the board after that date. An agreement once filed may not be rescinded.

Subd. 2. [HOW LONG AGREEMENT IS EFFECTIVE.] The agreement, insofar as it relates to the expenditure limits in section 10B.17, as adjusted by section 10B.18, and the contribution limit in section 10B.13, subdivision 5, remains effective for candidates until the dissolution of the principal campaign committee of the candidate or the end of the first election cycle completed after the agreement was filed, whichever occurs first.

Subd. 3. [AGREEMENT BY POLITICAL PARTY.] (a) As a condition of receiving a public subsidy, the chair of the state committee of a political party must sign and file with the board a written agreement in which the state committee agrees that the political party and all its party units will comply with section 10B.17. An agreement once filed may not be rescinded.

(b) The board must provide agreement forms to political parties on request at any time.

(c) The agreement not to make independent expenditures remains in effect until the end of the first general election cycle completed after the agreement was filed or the dissolution of the political party, whichever occurs first.

(d) The board must notify the commissioner of revenue of any agreement filed under this subdivision.

Sec. 34. [10B.21] [QUALIFYING CONTRIBUTIONS.]

Subdivision 1. [AMOUNTS.] In addition to the requirements of section 10B.20, to be eligible to receive a public subsidy under section 10B.22, a candidate must receive qualifying contributions from individuals eligible to vote in this state and, in the case of a legislative candidate, at least one-half from individuals eligible to vote for the candidate, in the amount indicated for the office sought, counting only the first $5 received from each contributor:

(1) candidates for governor and lieutenant governor, running together, $22,000;

(2) candidates for attorney general, secretary of state, and state auditor, separately, $12,500;

(3) candidates for the senate, $3,000; and

(4) candidates for the house of representatives, $1,500.

A candidate for statewide office must receive at least five percent of the qualifying amount from residents of each congressional district.

Subd. 2. [STATEMENT OF INTENT TO PARTICIPATE.] A candidate who intends to participate in the public subsidy program must file with the board, in a form approved by the board, a statement of intent to participate. The statement may not be filed before the beginning of the election cycle.

Subd. 3. [RECEIPT.] The board must make available to each candidate who has filed a statement of intent to participate in the public subsidy program copies of the official contribution receipt form designed by the board. The receipt must state that the contributor understands that the purpose of the contribution is to help the candidate qualify for a public subsidy. The form must include space for the contributor's printed name, signature, and home address, and the name of the candidate on whose behalf the contribution was made. The candidate or the treasurer of the candidate's principal campaign committee must provide to the contributor a receipt, which must be properly completed and signed by the contributor and returned to the candidate. The candidate must keep one copy of the receipt and file a second copy with the board, along with the affidavit of contributions required by subdivision 4 and a list, in an electronic format approved by the board, of the names and home addresses of the contributors and indicating whether the contributor is eligible to vote for the candidate.

Subd. 4. [AFFIDAVIT.] No sooner than January 1 in the general election year and no later than the day after the candidate files the affidavit of candidacy for the office, a candidate who intends to participate in the public subsidy program, or the treasurer of the candidate's principal campaign committee, must file with the board an affidavit stating that, since January 1 in the year before the general election year, the candidate's principal campaign committee has received qualifying contributions in the amount specified in subdivision 1.

Subd. 5. [SPECIAL ELECTIONS.] A candidate for a vacancy to be filled at a special election must receive qualifying contributions in one-third the amounts specified in subdivision 1. If the filing period for the special election does not coincide with the filing period for the general election, the candidate must submit the affidavit required by this section to the board within five days after filing the affidavit of candidacy.

Sec. 35. [10B.22] [PUBLIC SUBSIDY.]

Subdivision 1. [PAYMENT TO PARTICIPATING CANDIDATES.] Upon determining that a candidate has met all the requirements for receiving a public subsidy, the board must designate the candidate as "participating." The board must pay each participating candidate a public subsidy as provided in this section. The payment must be in the form of a check made "payable to the campaign fund of ..... (name of candidate)." An amount sufficient to make the payment is appropriated to the board from the general fund.

Subd. 2. [PAYMENT UPON QUALIFYING.] Within one week after it has designated a candidate as participating, the board must pay to the participating candidate a public subsidy equal to 20 percent of the participating candidate's spending limit.

Subd. 3. [PAYMENT UPON FILING FOR OFFICE.] Within one week after the close of filings for office, the board must pay a participating candidate who has an opponent in either the primary or the general election a public subsidy equal to 20 percent of the candidate's spending limit.

Subd. 4. [PAYMENT FOR GENERAL ELECTION.] As soon as the board has obtained from the secretary of state the results of the primary election, but no later than one week after the state canvassing board has certified the results of the primary, the board must pay to each participating

candidate whose name will appear on the ballot in the general election a public subsidy equal to 60 percent of the candidate's spending limit, except that a candidate who has no opponent in the general election must be paid a subsidy equal to six percent of the candidate's spending limit.

Subd. 5. [PAYMENT TO MATCH EXCESS CONTRIBUTIONS.] Upon receipt of a report of excess contributions under section 10B.12, subdivision 7, the board must notify any participating opponent of the nonparticipating candidate of the amount of the excess. Upon receipt of the first report, the board must pay the participating candidate an additional public subsidy equal to the participating candidate's original spending limit. The additional subsidy may only be spent, and the spending limit of the participating candidate is only increased, by the aggregate amount of excess contributions reported for that election cycle.

Subd. 6. [PAYMENT TO MATCH INDEPENDENT EXPENDITURES.] (a) Within 24 hours after receipt of a notice of independent expenditures under section 10B.12, subdivision 10, the board must notify each participating candidate in the affected race of the amount of the independent expenditure. Along with the first notice under this subdivision, the board must pay an additional public subsidy to each participating candidate in an amount equal to the participating candidate's original spending limit, to be spent only as provided in this subdivision. For purposes of this subdivision, before the primary election, "opponent" includes the candidates whose names are on the ballot for the primary of the same major party or, if there are none, the candidates whose names will be on the ballot for the general election.

(b) If the independent expenditure advocates the defeat of a participating candidate, the additional subsidy may be spent, and the spending limit of the participating candidate is increased, up to the aggregate amount of independent expenditures to defeat the participating candidate reported for that election cycle.

(c) If the independent expenditure advocates the election of a candidate and the sum of assets carried forward, contributions received as of the last reporting date, public subsidy received, and independent expenditures made in support of the candidate exceeds 120 percent of the spending limit for a participating opponent candidate for the legislature or 110 percent of the spending limit for a participating opponent candidate for constitutional officer, the participating opponent may spend the additional public subsidy, and the participating opponent's spending limit is increased, up to one-half the excess independent expenditures in support of the candidate reported for that election cycle.

(d) If an individual, political committee, political fund, or party unit has made expenditures in support of a candidate, any expenditure by the spender during the same election cycle to advocate the defeat of the candidate or in support of an opponent of the candidate does not authorize the candidate to spend matching money under paragraph (b) or (c).

Subd. 7. [PAYMENT FOR SPECIAL ELECTION.] The board must pay each participating candidate for legislative office in a special election an amount equal to the candidate's spending limit within 48 hours after the candidate has been designated as participating, but the candidate may spend only an amount equal to 20 percent of the candidate's spending limit upon being designated as participating, a candidate who has an opponent in either the primary or general election may spend an additional 20 percent upon filing for office, and a candidate whose name has been certified to appear on the ballot for the general election may spend an additional 60 percent. Any amount not spent by the candidate must be returned to the board under section 10B.23.

Subd. 8. [PAYMENT WITHHELD.] If a candidate has not yet filed a campaign finance report required by section 10B.12, or the candidate owes money to the board, the board must withhold the candidate's public subsidy until the report has been filed or the debt has been paid, whichever applies. If the report has not been filed or the debt has not been paid to the board by the end of the fiscal year, the subsidy must be applied to the debts owed by the candidate to the board and any remaining amount must be canceled to the general fund.

Sec. 36. [10B.23] [RETURN OF PUBLIC SUBSIDY.]

Subdivision 1. [WHEN RETURN REQUIRED.] A candidate must return all or a portion of the public subsidy received under section 10B.22 under the circumstances in this section or section 10B.24, subdivision 1.

To the extent that the amount of public subsidy received exceeds the actual expenditures made by the principal campaign committee of the candidate, the treasurer of the candidate's principal campaign committee must return an amount equal to the difference to the board. The cost of postage that was not used during an election cycle and payments that created credit balances at vendors at the close of an election cycle are not considered expenditures for purposes of determining the amount to be returned. Expenditures in excess of the candidate's spending limit do not count in determining aggregate expenditures under this paragraph.

Subd. 2. [HOW RETURN DETERMINED.] Whether or not a candidate is required under subdivision 1 to return all or a portion of the public subsidy must be determined from the report required to be filed with the board by that candidate by January 31 of the year following an election. An amount required to be returned must be submitted in the form of a check or money order and must accompany the report filed with the board. The board must deposit the check or money order in the state treasury for credit to the general fund. The amount returned must not exceed the amount of public subsidy received by the candidate.

Sec. 37. [10B.24] [CARRYFORWARD.]

Subdivision 1. [UNUSED FUNDS.] After all campaign expenditures and noncampaign disbursements for an election cycle have been made, a principal campaign committee may carry forward assets equal to the amount that the candidate may spend in the next election cycle before being designated a participating candidate for the same office, as set forth in section 10B.17, subdivision 2, paragraph (b). Any remaining assets up to the total amount of the public subsidy received under section 10B.22 must be returned to the state treasury for credit to the general fund under section 10B.23. Any remaining assets in excess of the total public subsidy must be contributed to the general fund, a public school, or a charity, or to a political party.

Subd. 2. [UNUSED POSTAGE AND CREDIT BALANCES CARRIED FORWARD.] Postage that is purchased but not used during an election cycle and credit balances at vendors that exceed a combined total of $500 must be carried forward and counted as expenditures during the election cycle during which they are used.

Sec. 38. [10B.25] [PENALTY FOR EXCEEDING LIMITS.]

Subdivision 1. [EXCEEDING CONTRIBUTION LIMITS.] (a) A candidate who permits the candidate's principal campaign committee, or the treasurer of a political committee, political fund, or party unit who permits the committee, fund, or party unit to accept contributions in excess of the limits imposed by section 10B.13 is subject to a civil penalty of up to ten times the amount by which the contribution exceeds the limits.

(b) The board may order a candidate who has permitted the candidate's principal campaign committee to accept contributions in excess of the limits imposed by section 10B.13 to return any public subsidy the candidate has received. The board must deposit the amount returned in the state treasury and credit it to the general fund.

(c) The board may recommend that a candidate who was nominated or elected to office after violating section 10B.13 should forfeit the nomination or office.

(d) A political committee or political fund that makes a contribution in excess of the limits imposed by section 10B.13 is subject to a civil penalty of up to ten times the amount by which the contribution exceeds the limits.

Subd. 2. [EXCEEDING EXPENDITURE LIMITS.] (a) A candidate subject to the expenditure limits in section 10B.17 who permits the candidate's principal campaign committee to make expenditures or permits approved expenditures to be made on the candidate's behalf in excess of the limits imposed by section 10B.17, as adjusted by section 10B.18, is subject to a civil penalty imposed by the board of up to ten times the amount by which the expenditures exceed the limit.

(b) The board may order a candidate subject to the expenditure limits in section 10B.17 who has permitted the candidate's principal campaign committee to make expenditures or has permitted approved expenditures to be made on the candidate's behalf in excess of the limits imposed by section 10B.17, as adjusted by section 10B.18, to return to the board any public subsidy the candidate has received. The board must deposit the amount returned in the state treasury and credit it to the general fund.

(c) The board may recommend that a candidate who was nominated or elected after violating the limits in section 10B.17 should forfeit the nomination or office.

(d) The chair of a political party or party unit subject to the prohibition in section 10B.17 that makes expenditures in violation of section 10B.17 is subject to a civil fine of up to ten times the amount of the expenditures.

Subd. 3. [CONCILIATION AGREEMENT.] If the board finds that there is reason to believe that excess contributions have been accepted contrary to section 10B.13 or excess expenditures made contrary to section 10B.17, the board must make every effort for a period of at least 14 days after its finding to correct the matter by informal methods of conference and conciliation and to enter a conciliation agreement with the person involved. A conciliation agreement under this subdivision is a matter of public record. Unless violated, a conciliation agreement is a bar to any civil proceeding under subdivision 4.

Subd. 4. [CIVIL ACTION.] (a) If the board is unable after a reasonable time to correct by informal methods a matter that constitutes probable cause to believe that excess contributions have been accepted contrary to section 10B.13 or excess expenditures made contrary to section 10B.17, the board must make a public finding of probable cause in the matter. After making a public finding, the board must bring an action, or transmit the finding to a county attorney who must bring an action, in the district court of Ramsey county or, in the case of a legislative candidate, the district court of a county within the legislative district, to collect a civil penalty imposed by the board, to demand the return of any public subsidy paid to the candidate, or to have the nomination or office declared forfeited. All money recovered under this section must be deposited in the state treasury and credited to the general fund.

(b) If a candidate is judged to have violated section 10B.13 or 10B.17, the court, after entering the judgment, may enter a supplemental judgment declaring that the candidate has forfeited the nomination or office, except as provided in paragraph (c). If the court enters the supplemental judgment, it must transmit to the filing officer a transcript of the supplemental judgment, the nomination or office becomes vacant, and the vacancy must be filled as provided by law.

(c) If the candidate has been elected to the legislature, the court, after entering the judgment that the candidate has violated section 10B.13 or 10B.17, must transmit a transcript of the judgment to the secretary of the senate or the chief clerk of the house of representatives, as appropriate, for further consideration by the house to which the candidate was elected.

Sec. 39. [10B.26] [DISSOLUTION OF INACTIVE COMMITTEES AND FUNDS.]

Subdivision 1. [DISSOLUTION REQUIRED.] A political committee, political fund, or principal campaign committee must be dissolved within 60 days after receiving notice from the board that the committee or fund has become inactive. The assets of the committee or fund must be spent for the purposes authorized by section 211B.12 and other applicable law or liquidated and deposited in the general fund within 60 days after the board notifies the committee or fund that it has become inactive.

Subd. 2. [INACTIVITY DEFINED.] (a) A principal campaign committee becomes inactive on the later of the following dates:

(1) when six years have elapsed since the last election in which the person was a candidate for the office sought or held at the time the principal campaign committee registered with the board; or

(2) when six years have elapsed since the last day on which the individual for whom it exists served in an elective office subject to this chapter.

(b) A political committee or fund becomes inactive when two years have elapsed since the end of a reporting period during which the political committee or fund made an expenditure or disbursement requiring disclosure under this chapter.

Subd. 3. [REMAINING DEBTS.] If a committee or fund becomes inactive when it still has unpaid debts, the committee or fund must liquidate available assets to pay the debts. If insufficient assets exist to pay the debts, the board may set up a payment schedule and allow the committee or fund to defer dissolution until all debts are paid. This section does not extinguish debts incurred by the committee or fund.

Sec. 40. [10B.27] [DISSOLUTION OR TERMINATION.]

Subdivision 1. [TERMINATION REPORT.] A political committee, political fund, principal campaign committee, or party unit may not dissolve until it has settled all of its debts and disposed of all its assets in excess of $100 and filed a termination report. "Assets" include credit balances at vendors and physical assets such as computers and postage stamps. Physical assets must be listed at their fair market value. The termination report may be made at any time and must include all information required in periodic reports.

Subd. 2. [TERMINATION ALLOWED.] Notwithstanding subdivision 1, a committee, fund, or party unit that has debts incurred more than six years previously, has disposed of all its assets, and has met the requirements of section 10B.12, subdivision 11, may notify any remaining creditors by certified mail and then file a termination report.

Sec. 41. [10B.28] [TRANSFER OF DEBTS.]

Notwithstanding section 10B.27, a candidate may terminate the candidate's principal campaign committee for one state office by transferring any debts of that committee to the candidate's principal campaign committee for another state office if all outstanding unpaid bills or loans from the committee being terminated are assumed and continuously reported by the committee to which the transfer is being made until paid or forgiven. A loan that is forgiven is covered by section 10B.12 and, for purposes of section 10B.23, is a contribution to the principal campaign committee from which the debt was transferred under this section.

Sec. 42. Minnesota Statutes 2000, section 129D.13, is amended by adding a subdivision to read:

Subd. 5. [FREE TIME FOR POLITICAL CANDIDATES.] A station that receives a grant under this section must make available free time to each political candidate who has been designated by the campaign finance and public disclosure board as participating in the public subsidy program under section 10B.22. The amount of free time is 30 minutes each election cycle for a candidate for state constitutional officer and 60 seconds each election cycle for a candidate for the legislature. The free time for a candidate for state constitutional officer or video clip must be broadcast time. The free time for a candidate for the legislature may be either broadcast time or an archived video clip on the station's Web site. The broadcast or video clip must include only the candidate speaking in the candidate's own voice.

Sec. 43. Minnesota Statutes 2000, section 129D.14, is amended by adding a subdivision to read:

Subd. 7. [FREE TIME FOR POLITICAL CANDIDATES.] A station that receives a grant under this section must make available free time to each political candidate who has been designated by the campaign finance and public disclosure board as participating in the public subsidy program under section 10B.22. The amount of free time is 30 minutes each election cycle for a candidate for state constitutional officer and 60 seconds each election cycle for a candidate for the legislature. The free time for a candidate for state constitutional officer or audio clip must be broadcast time. The free time for a candidate for the legislature may be either broadcast time or an archived audio clip on the station's Web site. The broadcast or audio clip must include only the candidate speaking in the candidate's own voice.

Sec. 44. Minnesota Statutes 2000, section 204B.11, subdivision 1, is amended to read:

Subdivision 1. [AMOUNT; DISHONORED CHECKS; CONSEQUENCES.] Except as provided by subdivision 2, a filing fee shall be paid by each candidate who files an affidavit of candidacy. The fee shall be paid at the time the affidavit is filed. The amount of the filing fee shall vary with the office sought as follows:

(a) for the office of governor, lieutenant governor, attorney general, state auditor, state treasurer, secretary of state, representative in Congress, judge of the supreme court, judge of the court of appeals, or judge of the district court, $300;

(b) for the office of senator in Congress, $400;

(c) for office of senator or representative in the legislature, $100;

(d) for a county office, $50; and

(e) for the office of soil and water conservation district supervisor, $20.

For a candidate who has raised the necessary qualifying contributions and been designated by the campaign finance and public disclosure board under section 10B.22 as participating in the public subsidy program, no filing fee is required.

For the office of presidential elector, and for those offices for which no compensation is provided, no filing fee is required.

The filing fees received by the county auditor shall immediately be paid to the county treasurer. The filing fees received by the secretary of state shall immediately be paid to the state treasurer.

When an affidavit of candidacy has been filed with the appropriate filing officer and the requisite filing fee has been paid, the filing fee shall not be refunded. If a candidate's filing fee is paid with a check, draft, or similar negotiable instrument for which sufficient funds are not available or that is dishonored, notice to the candidate of the worthless instrument must be sent by the filing officer via registered mail no later than immediately upon the closing of the filing deadline with return receipt requested. The candidate will have five days from the time the filing officer receives proof of receipt to issue a check or other instrument for which sufficient funds are available. The candidate issuing the worthless instrument is liable for a service charge pursuant to section 332.50. If adequate payment is not made, the name of the candidate must not appear on any official ballot and the candidate is liable for all costs incurred by election officials in removing the name from the ballot.

Sec. 45. Minnesota Statutes 2000, section 211A.13, is amended to read:

211A.13 [PROHIBITED TRANSFERS.]

A candidate for political subdivision office must not accept contributions from the principal campaign committee of a candidate as defined in section ~~10A.01, subdivision 5~~ 10B.01, subdivision 8. A candidate for political subdivision office must not make contributions to a principal campaign committee, unless the contribution is made from the personal funds of the candidate for political subdivision office.

Sec. 46. Minnesota Statutes 2000, section 211B.12, is amended to read:

211B.12 [LEGAL EXPENDITURES.]

Use of money collected for political purposes is prohibited unless the use is reasonably related to the conduct of election campaigns, or is a noncampaign disbursement as defined in section ~~10A.01, subdivision 10c~~ 10B.01, subdivision 20. The following are permitted expenditures when made for political purposes:

(1) salaries, wages, and fees;

(2) communications, mailing, transportation, and travel;

(3) campaign advertising;

(4) printing;

(5) office and other space and necessary equipment, furnishings, and incidental supplies;

(6) charitable contributions of not more than $50 to any charity annually; and

(7) other expenses, not included in clauses (1) to (6), that are reasonably related to the conduct of election campaigns. In addition, expenditures made for the purpose of providing information to constituents, whether or not related to the conduct of an election, are permitted expenses. Money collected for political purposes and assets of a political committee or political fund may not be converted to personal use.

Sec. 47. Minnesota Statutes 2000, section 211B.15, subdivision 16, is amended to read:

Subd. 16. [EMPLOYEE POLITICAL FUND SOLICITATION.] Any solicitation of political contributions by an employee must be in writing, informational and nonpartisan in nature, and not promotional for any particular candidate or group of candidates. The solicitation must consist only of a general request on behalf of ~~an independent political committee (~~a conduit fund~~)~~, and as defined in section 10B.01, subdivision 9, and must state that there is no minimum contribution, that a contribution or lack thereof will in no way impact the employee's employment, that the employee must direct the contribution to candidates of the employee's choice, and that any response by the employee shall remain confidential and shall not be directed to the employee's supervisors or managers. Questions from an employee regarding a solicitation may be answered orally or in writing consistent with the above requirements. Nothing in this subdivision authorizes a corporate donation of an employee's time prohibited under subdivision 2.

Sec. 48. [211B.22] [PARTICIPATING CANDIDATE CAMPAIGN MATERIAL.]

A candidate may not claim in any campaign material or communication to be a "participating candidate" unless the candidate has been designated a participating candidate by the campaign finance and public disclosure board under section 10B.22 for participating in the public subsidy program.

Sec. 49. Minnesota Statutes 2000, section 340A.404, subdivision 10, is amended to read:

Subd. 10. [TEMPORARY ON-SALE LICENSES.] The governing body of a municipality may issue to (1) a club or charitable, religious, or other nonprofit organization in existence for at least three years, (2) a political committee registered under section ~~10A.14~~ 10B.07, or (3) a state university, a temporary license for the on-sale of intoxicating liquor in connection with a social event within the municipality sponsored by the licensee. The license may authorize the on-sale of intoxicating liquor for not more than four consecutive days, and may authorize on-sales on premises other than premises the licensee owns or permanently occupies. The license may provide that the licensee may contract for intoxicating liquor catering services with the holder of a full-year on-sale intoxicating liquor license issued by any municipality. The licenses are subject to the terms, including a license fee, imposed by the issuing municipality. Licenses issued under this subdivision are subject to all laws and ordinances governing the sale of intoxicating liquor except sections 340A.409 and 340A.504, subdivision 3, paragraph (d), and those laws and ordinances which by their nature are not applicable. Licenses under this subdivision are not valid unless first approved by the commissioner of public safety.

A county under this section may issue a temporary license only to a premises located in the unincorporated or unorganized territory of the county.

Sec. 50. Minnesota Statutes 2000, section 353.03, subdivision 1, is amended to read:

Subdivision 1. [MANAGEMENT; COMPOSITION; ELECTION.] The management of the public employees retirement fund is vested in an 11-member board of trustees consisting of ten members and the state auditor who may designate a deputy auditor with expertise in pension matters as the auditor's representative on the board. The governor shall appoint five trustees to

four-year terms, one of whom shall be designated to represent school boards, one to represent cities, one to represent counties, one who is a retired annuitant, and one who is a public member knowledgeable in pension matters. The membership of the association, including recipients of retirement annuities and disability and survivor benefits, shall elect five trustees, one of whom must be a member of the police and fire fund and one of whom must be a former member who met the definition of public employee under section 353.01, subdivisions 2 and 2a, for at least five years prior to terminating membership or a member who receives a disability benefit, for terms of four years. Except as provided in this subdivision, trustees elected by the membership of the association must be public employees and members of the association. For seven days beginning October 1 of each year preceding a year in which an election is held, the association shall accept at its office filings in person or by mail of candidates for the board of trustees. A candidate shall submit at the time of filing a nominating petition signed by 25 or more members of the fund. No name may be withdrawn from nomination by the nominee after October 15. At the request of a candidate for an elected position on the board of trustees, the board shall mail a statement of up to 300 words prepared by the candidate to all persons eligible to vote in the election of the candidate. The board may adopt policies to govern form and length of these statements, timing of mailings, and deadlines for submitting materials to be mailed. These policies must be approved by the secretary of state. The secretary of state shall resolve disputes between the board and a candidate concerning application of these policies to a particular statement. A candidate who:

(1) receives contributions or makes expenditures in excess of $100; or

(2) has given implicit or explicit consent for any other person to receive contributions or make expenditures in excess of $100 for the purpose of bringing about the candidate's election, shall file a report with the campaign finance and public disclosure board disclosing the source and amount of all contributions to the candidate's campaign. The campaign finance and public disclosure board shall prescribe forms governing these disclosures. Expenditures and contributions have the meaning defined in section ~~10A.01~~ 10B.01. These terms do not include the mailing made by the association board on behalf of the candidate. A candidate shall file a report within 30 days from the day that the results of the election are announced. The campaign finance and public disclosure board shall maintain these reports and make them available for public inspection in the same manner as the board maintains and makes available other reports filed with it. By January 10 of each year in which elections are to be held the board shall distribute by mail to the members ballots listing the candidates. No member may vote for more than one candidate for each board position to be filled. A ballot indicating a vote for more than one person for any position is void. No special marking may be used on the ballot to indicate incumbents. The last day for mailing ballots to the fund is January 31. Terms expire on January 31 of the fourth year, and positions are vacant until newly elected members are qualified. The ballot envelopes must be so designed and the ballots counted in a manner that ensures that each vote is secret.

The secretary of state shall supervise the elections. The board of trustees and the executive director shall undertake their activities consistent with chapter 356A.

Sec. 51. Minnesota Statutes 2000, section 383B.042, subdivision 5, is amended to read:

Subd. 5. [CANDIDATE.] "Candidate" means an individual, not within the definition of candidate of section ~~10A.01, subdivision 10~~ 10B.01, subdivision 8, who seeks nomination or election to any county office in Hennepin county, to any city office in any home rule charter city or statutory city located wholly within Hennepin county and having a population of 75,000 or more or to the school board of special school district No. 1, Minneapolis.

Sec. 52. [TRANSITION.]

Subdivision 1. [ELECTION CYCLE.] Notwithstanding Minnesota Statutes, section 10B.01, subdivision 14, the first election cycle begins on the effective date of Minnesota Statutes, section 10B.13, and concludes on December 31 following the next general election for the office.

Subd. 2. [CONTRIBUTION LIMITS.] Contributions to a candidate that were made before the effective date of Minnesota Statutes, section 10B.13, and were lawful when made need not be refunded, even though they exceed the new limits on contributions in Minnesota Statutes, section 10B.13.

Subd. 3. [EXPENDITURE LIMITS.] All spending limit agreements filed with the campaign finance and public disclosure board before the effective date of Minnesota Statutes, section 10B.20, become void on that date and all eligibility for continued public subsidies under Minnesota Statutes, chapter 10A or 290, is ended on that date. The new expenditure limits and eligibility for a public subsidy under this act apply to candidates who sign and file with the campaign finance and public disclosure board a new spending limit agreement under Minnesota Statutes, section 10B.20, on or after its effective date.

Subd. 4. [CARRYFORWARD.] Capital assets of a principal campaign committee acquired more than 90 days before the effective date of Minnesota Statutes, section 10B.24, may be carried forward to the first election cycle under this act without limit on their value.

Subd. 5. [REPORTS.] Campaign finance reports for the election cycle ending December 31, 2002, must be filed by January 31, 2003, and are governed by the requirements of Minnesota Statutes, section 10A.20, as they were in effect on December 31, 2002.

Sec. 53. [APPROPRIATION.]

$..... is appropriated from the general fund to the campaign finance and public disclosure board to publish campaign finance reports on the World Wide Web, to be available until June 30, 2003.

Sec. 54. [REPEALER.]

Minnesota Statutes 2000, sections 10A.01, subdivisions 3, 4, 6, 7, 9, 10, 11, 12, 13, 15, 16, 17, 18, 20, 23, 25, 26, 27, 28, 29, 30, 32, 34, and 36; 10A.105; 10A.11; 10A.12; 10A.13; 10A.14; 10A.15; 10A.16; 10A.17; 10A.18; 10A.20; 10A.24; 10A.241; 10A.242; 10A.25; 10A.255; 10A.257; 10A.27; 10A.273; 10A.275; 10A.28; 10A.29; 10A.30; 10A.31, subdivisions 1, 3, 4, 5, 5a, 6, 6a, 10, 10a, 10b, and 11; 10A.315; 10A.321; 10A.322; 10A.323; and 10A.324, including any amendments made by this act, are repealed.

Minnesota Statutes 2001 Supplement, sections 10A.31, subdivisions 3a and 7; and 290.06, subdivision 23, including any amendments made by this act, are repealed.

Sec. 55. [INSTRUCTION TO REVISOR.]

In the next edition of Minnesota Statutes, the revisor of statutes must note that the sections of Minnesota Statutes listed in column A have been reenacted, as amended, as the sections of Minnesota Statutes listed in column B, as follows:

Column A	Column B
10A.01, subd. 3	10B.01, subd. 2
10A.01, subd. 4	10B.01, subd. 3
10A.01, subd. 6	10B.01, subd. 4
10A.01, subd. 7	10B.01, subd. 5
10A.01, subd. 9	10B.01, subd. 7
10A.01, subd. 10	10B.01, subd. 8
10A.01, subd. 10a	10B.01, subd. 9
10A.01, subd. 11	10B.01, subd. 10
10A.01, subd. 12	10B.01, subd. 11
10A.01, subd. 13	10B.01, subd. 12
10A.01, subd. 15	10B.01, subd. 13
10A.01, subd. 16	10B.01, subd. 14
10A.01, subd. 17	10B.01, subd. 15
10A.01, subd. 18	10B.01, subd. 16
10A.01, subd. 20	10B.01, subd. 17
10A.01, subd. 23	10B.01, subd. 18
10A.01, subd. 25	10B.01, subd. 19
10A.01, subd. 26	10B.01, subd. 20

10A.01, subd. 27	10B.01, subd. 21
10A.01, subd. 28	10B.01, subd. 22
10A.01, subd. 29	10B.01, subd. 23
10A.01, subd. 30	10B.01, subd. 24
10A.01, subd. 32	10B.01, subd. 25
10A.01, subd. 34	10B.01, subd. 26
10A.01, subd. 36	10B.01, subd. 27
10A.105	10B.02
10A.11	10B.03
10A.12	10B.04
10A.13	10B.06
10A.14	10B.07
10A.15	10B.08
10A.16	10B.09
10A.17	10B.10
10A.18	10B.11
10A.20	10B.12
10A.24	10B.27
10A.241	10B.28
10A.242	10B.26
10A.25	10B.17
10A.255	10B.18
10A.257	10B.24
10A.27	10B.13
10A.273	10B.14
10A.275	10B.19
10A.28, subd. 1	10B.25, subd. 2
10A.28, subd. 2	10B.25, subd. 1
10A.28, subd. 3	10B.25, subd. 3
10A.28, subd. 4	10B.25, subd. 4
10A.29	10B.15
10A.315	10B.22, subd. 6
10A.322	10B.20
10A.323	10B.21
10A.324	10B.23
290.06, subd. 23	10B.16

Sec. 56. [EFFECTIVE DATE.]

This article is effective January 1, 2003."

Amend the title accordingly

Pursuant to Rule 7.7, Senator Kleis raised a point of order as to whether the second Hottinger amendment was in order.

The President ruled the point of order well taken, so the second Hottinger amendment was not in order.

Senator Marty moved to amend S.F. No. 3384 as follows:

Page 1, after line 19, insert:

"ARTICLE 1

CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD"

Page 23, after line 32, insert:

"ARTICLE 2

INDEPENDENT EXPENDITURES

Section 1. Minnesota Statutes 2000, section 10A.01, subdivision 9, is amended to read:

Subd. 9. [CAMPAIGN EXPENDITURE.] (a) "Campaign expenditure" or "expenditure" means a purchase or payment of money or anything of value, or an advance of credit, made or incurred for the purpose of influencing the nomination or election of a candidate or for the purpose of promoting or defeating a ballot question.

(b) "Expenditure" includes a cost incurred to design, produce, or disseminate a communication if the communication contains words such as "vote for," "reelect," "(name of candidate) for (office)," "vote against," "defeat," or another phrase or campaign slogan that in context can have no reasonable meaning other than to advocate support for or opposition to the nomination or election of one or more clearly identified candidates.

(c) "Expenditure" is presumed to include a cost incurred to design, produce, or disseminate a communication if the communication names or depicts one or more clearly identified candidates, is disseminated during the 45 days before a primary election, during the 60 days before a general election, or during a special election cycle until election day, and the cost exceeds the following amounts for a communication naming or depicting a candidate for the following offices:

(1) $500 for a candidate for governor, lieutenant governor, attorney general, secretary of state, or state auditor; or

(2) $100 for a candidate for state senator or representative.

An individual or association presumed under this paragraph to have made an expenditure may rebut the presumption by a written statement signed by the spender and filed with the board stating that the cost was not incurred with intent to influence the nomination, election, or defeat of any candidate, supported by any additional evidence the spender chooses to submit. The board may consider any additional evidence it deems relevant and material and must determine by a preponderance of the evidence whether the cost was incurred with intent to influence the nomination, election, or defeat of a candidate.

(d) An expenditure is considered to be made in the year in which the candidate made the purchase of goods or services or incurred an obligation to pay for goods or services.

(e) An expenditure made for the purpose of defeating a candidate is considered made for the purpose of influencing the nomination or election of that candidate or any opponent of that candidate.

(f) Except as provided in clause (1), "expenditure" includes the dollar value of a donation in kind.

"Expenditure" does not include:

(1) noncampaign disbursements as defined in subdivision 26;

(2) services provided without compensation by an individual volunteering personal time on behalf of a candidate, ballot question, political committee, political fund, principal campaign committee, or party unit; ~~or~~

(3) the publishing or broadcasting of news items or editorial comments by the news media, if the news medium is not owned by or affiliated with any candidate or principal campaign committee; or

(4) a cost incurred by an association for a communication targeted to inform solely its own dues-paying members of the association's position on a candidate.

Sec. 2. Minnesota Statutes 2000, section 10A.01, subdivision 18, is amended to read:

Subd. 18. [INDEPENDENT EXPENDITURE.] (a) "Independent expenditure" means an expenditure ~~expressly advocating the election or defeat of a clearly identified candidate, if the expenditure~~ that is made without the express or implied consent, authorization, or cooperation of, and not in concert with or at the request or suggestion of, any candidate or any candidate's principal campaign committee or agent. An independent expenditure is not a contribution to that candidate. ~~An expenditure by a political party or political party unit in a race where the political party has a candidate on the ballot is not an independent expenditure.~~

(b) An expenditure is presumed to be not independent if, for example:

(1) in the same election cycle in which the expenditure occurs, the spender or the spender's agent retains the professional services of an individual or entity that, in a nonministerial capacity, provides or has provided campaign-related service, including polling or other campaign research, media consulting or production, direct mail, or fundraising, to a candidate supported by the spender for nomination or election to the same office as any candidate whose nomination or election the expenditure is intended to influence or to a political party working in coordination with the supported candidate;

(2) the expenditure pays for a communication that disseminates, in whole or in substantial part, a broadcast or written, graphic, or other form of campaign material designed, produced, or distributed by the candidate, the candidate's principal campaign committee, or their agents;

(3) the expenditure is based on information about the candidate's electoral campaign plans, projects, or needs that is provided by the candidate, the candidate's principal campaign committee, or their agents directly or indirectly to the spender or the spender's agent, with an express or tacit understanding that the spender is considering making the expenditure;

(4) before the election, the spender or the spender's agent informs a candidate or the principal campaign committee or agent of a candidate for the same office as a candidate clearly identified in a communication paid for by the expenditure about the communication's contents; timing, location, mode, or frequency of dissemination; or intended audience; or

(5) in the same election cycle in which the expenditure occurs, the spender or the spender's agent is serving or has served in an executive, policymaking, fundraising, or advisory position with the candidate's campaign or has participated in strategic or policymaking discussions with the candidate's campaign relating to the candidate's pursuit of nomination or election to office and the candidate is pursuing the same office as a candidate whose nomination or election the expenditure is intended to influence.

An individual or association presumed under this paragraph to have made an expenditure that was not independent may rebut the presumption by a written statement signed by the spender and filed with the board stating that the expenditure was made without the express or implied consent, authorization, or cooperation of, and not in concert with or at the request or suggestion of, any candidate or any candidate's principal campaign committee or agent, supported by any additional evidence the spender chooses to submit. The board may consider any additional evidence it deems relevant and material and must determine by a preponderance of the evidence whether the expenditure was independent.

(c) An expenditure by anyone other than a principal campaign committee that does not qualify as an independent expenditure under this subdivision is deemed to be an approved expenditure under subdivision 4.

Sec. 3. Minnesota Statutes 2000, section 10A.25, subdivision 1, is amended to read:

Subdivision 1. [LIMITS ARE VOLUNTARY.] The expenditure limits imposed by this section on a candidate apply only to a candidate who has signed an agreement under section 10A.322 to be bound by them as a condition of receiving a public subsidy for the candidate's campaign. The prohibition imposed by this section on a political party applies only to a political party that has signed an agreement under section 10A.322 to be bound by it as a condition of receiving a public subsidy for the party's activities.

Sec. 4. Minnesota Statutes 2000, section 10A.25, is amended by adding a subdivision to read:

Subd. 14. [INDEPENDENT EXPENDITURES BY POLITICAL PARTIES.] (a) A political party or party unit must not make an independent expenditure.

(b) A political party that has agreed not to make independent expenditures as a condition of receiving a public subsidy is released from the prohibition but remains eligible to receive a public subsidy if a political party that has not agreed to the prohibition makes an independent expenditure during that election cycle.

(c) A political party that has not agreed to the prohibition in this subdivision must file written notice with the board and serve written notice on every other political party within 24 hours after making an independent expenditure. The notice must state only that the political party has made an independent expenditure. Upon receipt of the notice, the political party that agreed to the prohibition is no longer subject to the prohibition but remains eligible to receive a public subsidy.

Sec. 5. Minnesota Statutes 2000, section 10A.28, subdivision 1, is amended to read:

Subdivision 1. [EXCEEDING EXPENDITURE LIMITS.] (a) A candidate subject to the expenditure limits in section 10A.25 who permits the candidate's principal campaign committee to make expenditures or permits approved expenditures to be made on the candidate's behalf in excess of the limits imposed by section 10A.25, as adjusted by section 10A.255, is subject to a civil fine of up to four times the amount by which the expenditures exceeded the limit.

(b) The chair of a political party or party unit subject to the prohibition in section 10A.25 that makes expenditures in violation of section 10A.25 is subject to a civil fine of up to four times the amount of the expenditures.

Sec. 6. Minnesota Statutes 2000, section 10A.31, subdivision 3, is amended to read:

Subd. 3. [FORM.] The commissioner of revenue must provide on the first page of the income tax form and the renter and homeowner property tax refund return a space for the individual to indicate a wish to pay $5 ($10 if filing a joint return) from the general fund of the state to finance election campaigns. The form must also contain language prepared by the commissioner that permits the individual to direct the state to pay the $5 (or $10 if filing a joint return) to: (1) one of the ~~major~~ political parties~~; (2) any minor political party~~ that qualifies under subdivision 3a; or ~~(3)~~ (2) all qualifying candidates as provided by subdivision 7. The renter and homeowner property tax refund return must include instructions that the individual filing the return may designate $5 on the return only if the individual has not designated $5 on the income tax return.

Sec. 7. Minnesota Statutes 2000, section 10A.31, subdivision 5, is amended to read:

Subd. 5. [ALLOCATION.] (a) [GENERAL ACCOUNT.] In each calendar year the money in the general account must be allocated to candidates as follows:

(1) 21 percent for the offices of governor and lieutenant governor together;

(2) 4.2 percent for the office of attorney general;

(3) 2.4 percent each for the offices of secretary of state and state auditor;

(4) in each calendar year during the period in which state senators serve a four-year term, 23-1/3 percent for the office of state senator, and 46-2/3 percent for the office of state representative; and

(5) in each calendar year during the period in which state senators serve a two-year term, 35 percent each for the offices of state senator and state representative.

(b) [PARTY ACCOUNT.] In each calendar year the money in each party account must be allocated as follows:

(1) 14 percent for the offices of governor and lieutenant governor together;

(2) 2.8 percent for the office of attorney general;

(3) 1.6 percent each for the offices of secretary of state and state auditor;

(4) in each calendar year during the period in which state senators serve a four-year term, 23-1/3 percent for the office of state senator, and 46-2/3 percent for the office of state representative;

(5) in each calendar year during the period in which state senators serve a two-year term, 35 percent each for the offices of state senator and state representative; and

(6) ten percent for the state committee of a political party that has signed and filed with the board an agreement under section 10A.322 not to make independent expenditures.

Money allocated to each state committee under clause (6) must be deposited in a separate account and must be spent for only those items enumerated in section 10A.275. Money allocated to a state committee under clause (6) must be paid to the committee by the board as it is received in the account on a monthly basis, with payment on the 15th day of the calendar month following the month in which the returns were processed by the department of revenue, provided that these distributions would be equal to 90 percent of the amount of money indicated in the department of revenue's weekly unedited reports of income tax returns and property tax refund returns processed in the month, as notified by the department of revenue to the board. The amounts paid to each state committee are subject to biennial adjustment and settlement at the time of each certification required of the commissioner of revenue under subdivisions 7 and 10. If the total amount of payments received by a state committee for the period reflected on a certification by the department of revenue is different from the amount that should have been received during the period according to the certification, each subsequent monthly payment must be increased or decreased to the fullest extent possible until the amount of the overpayment is recovered or the underpayment is distributed.

Money not allocated to a state committee under clause (6) because the state committee has not signed and filed with the board a spending limit agreement under section 10A.322 must be canceled to the general fund.

Sec. 8. Minnesota Statutes 2000, section 10A.322, is amended to read:

10A.322 [SPENDING LIMIT AGREEMENTS.]

Subdivision 1. [AGREEMENT BY CANDIDATE.] (a) As a condition of receiving a public subsidy, a candidate must sign and file with the board a written agreement in which the candidate agrees that the candidate will comply with sections 10A.25; 10A.27, subdivision 10; and 10A.324.

(b) Before the first day of filing for office, the board must forward agreement forms to all filing officers. The board must also provide agreement forms to candidates on request at any time. The candidate must file the agreement with the board by ~~September~~ August 1 preceding the candidate's general election or a special election held at the general election. An agreement may not be filed after that date. An agreement once filed may not be rescinded.

(c) The board must notify the commissioner of revenue of any agreement ~~signed~~ filed under this subdivision.

(d) Notwithstanding paragraph (b), if a vacancy occurs that will be filled by means of a special election and the filing period does not coincide with the filing period for the general election, a candidate may sign and ~~submit~~ file a spending limit agreement not later than the day after the candidate files the affidavit of candidacy or nominating petition for the office.

~~Subd. 2. [HOW LONG AGREEMENT IS EFFECTIVE.]~~ (e) The agreement, insofar as it relates to the expenditure limits in section 10A.25, as adjusted by section 10A.255, and the contribution limit in section 10A.27, subdivision 10, remains effective for candidates until the dissolution of the principal campaign committee of the candidate or the end of the first election cycle completed after the agreement was filed, whichever occurs first.

Subd. 2a. [AGREEMENT BY POLITICAL PARTY.] (a) As a condition of receiving a public subsidy, the chair of the state committee of a political party must sign and file with the board a written agreement in which the state committee agrees that the political party and all its party units will comply with section 10A.25. An agreement once filed may not be rescinded.

(b) The board must provide agreement forms to political parties on request at any time. The state chair must file the agreement with the board by February 1 of any year during an election cycle in order to be allocated money designated to the party account on tax returns for the preceding and current taxable years.

(c) The agreement not to make independent expenditures remains in effect until the end of the first general election cycle completed after the agreement was filed or the dissolution of the political party, whichever occurs first.

(d) The board must notify the commissioner of revenue of any agreement filed under this subdivision.

Subd. 4. [REFUND RECEIPT FORMS; PENALTY.] The board must make available to a political party ~~on request and to any~~ or candidate for whom an agreement under this section is effective, a supply of official refund receipt forms that state in boldface type that (1) a contributor who is given a receipt form is eligible to claim a refund as provided in section 290.06, subdivision 23, and (2) ~~if the contribution is to a candidate,~~ that the candidate or political party has signed an agreement to limit campaign expenditures as provided in this section. The forms must provide duplicate copies of the receipt to be attached to the contributor's claim. If a candidate ~~who~~ does not sign an agreement under this section and ~~who~~ the candidate or the treasurer of the candidate's principal campaign committee willfully issues an official refund receipt form or a facsimile of one to any of the candidate's contributors, the issuer of the receipt is guilty of a misdemeanor. If the state chair of a political party has not signed an agreement under this section and the chair or treasurer of a party unit willfully issues an official refund receipt form or a facsimile of one to any of the party's contributors, the issuer of the receipt is guilty of a misdemeanor.

Sec. 9. Minnesota Statutes 2001 Supplement, section 290.06, subdivision 23, is amended to read:

Subd. 23. [REFUND OF CONTRIBUTIONS TO POLITICAL PARTIES AND CANDIDATES.] (a) A taxpayer may claim a refund equal to the amount of the taxpayer's contributions made in the calendar year to candidates and to a political party. The maximum refund for an individual must not exceed $50 and for a married couple, filing jointly, must not exceed $100. A refund of a contribution is allowed only if the taxpayer files a form required by the commissioner and attaches to the form a copy of an official refund receipt form issued by the candidate or party and signed by the candidate, the treasurer of the candidate's principal campaign committee, or the chair or treasurer of the party unit, after the contribution was received. The receipt forms must be numbered, and the data on the receipt that are not public must be made available to the campaign finance and public disclosure board upon its request. A claim must be filed with the commissioner no sooner than January 1 of the calendar year in which the contribution was made and no later than April 15 of the calendar year following the calendar year in which the contribution was made. A taxpayer may file only one claim per calendar year. Amounts paid by the commissioner after June 15 of the calendar year following the calendar year in which the contribution was made must include interest at the rate specified in section 270.76.

(b) No refund is allowed under this subdivision for a contribution to a candidate unless the candidate:

(1) has signed and filed an agreement to limit campaign expenditures as provided in section 10A.322;

(2) is seeking an office for which voluntary spending limits are specified in section 10A.25; and

(3) has designated a principal campaign committee.

This subdivision does not limit the campaign expenditures of a candidate who does not sign an agreement but accepts a contribution for which the contributor improperly claims a refund.

No refund is allowed under this subdivision for a contribution to a political party or party unit unless the state chair of the political party has signed and filed an agreement not to make independent expenditures as provided in section 10A.322. Notwithstanding the deadline in section 10A.322 in order to be eligible to receive a distribution of checkoff money under section 10A.31, there is no deadline for filing an agreement in order to be eligible to receive a refund under this subdivision.

(c) For purposes of this subdivision, "political party" ~~means a major political party as defined in section 200.02, subdivision 7, or a minor political party qualifying for inclusion on the income tax or property tax refund form under section 10A.31, subdivision 3a~~ has the meaning given it in section 10A.01, subdivision 29.

~~A "major party" or "minor party" includes the aggregate of that party's organization within each house of the legislature, the state party organization, and the party organization within congressional districts, counties, legislative districts, municipalities, and precincts.~~ "Party unit" has the meaning given it in section 10A.01, subdivision 30.

"Candidate" means a candidate as defined in section 10A.01, subdivision 10, except a candidate for judicial office.

"Contribution" means a gift of money.

(d) The commissioner shall make copies of the form available to the public and candidates upon request.

(e) The following data collected or maintained by the commissioner under this subdivision are private: the identities of individuals claiming a refund, the identities of candidates to whom those individuals have made contributions, and the amount of each contribution.

(f) The commissioner shall report to the campaign finance and public disclosure board by each August 1 a summary showing the total number and aggregate amount of political contribution refunds made on behalf of each candidate and each political party. These data are public.

(g) The amount necessary to pay claims for the refund provided in this section is appropriated from the general fund to the commissioner of revenue.

(h) For a taxpayer who files a claim for refund via the Internet or other electronic means, the commissioner may accept the number on the official receipt as documentation that a contribution was made rather than the actual receipt as required by paragraph (a).

Sec. 10. [TRANSITION.]

Notwithstanding section 8, the deadline for a state party chair to file with the campaign finance and public disclosure board an agreement not to make independent expenditures in order to be eligible to receive checkoff money for the general election cycle ending December 31, 2002, is June 1, 2002.

Sec. 11. [EFFECTIVE DATE.]

This article is effective the day following final enactment and applies to contributions received and expenditures and checkoff money distributions made on and after that date."

Amend the title accordingly

Senator Ourada questioned whether the amendment was germane.

The President ruled that the amendment was germane.

The question was taken on the adoption of the Marty amendment.

The roll was called, and there were yeas 25 and nays 40, as follows:

Those who voted in the affirmative were:

Anderson	Foley	Kleis	Moua	Ring
Berglin	Higgins	Krentz	Murphy	Sabo
Betzold	Johnson, Dave	Lourey	Orfield	Scheid
Chaudhary	Johnson, Doug	Marty	Pogemiller	Solon, Y.P.
Cohen	Kelley, S.P.	Metzen	Price	Wiger

Those who voted in the negative were:

Bachmann	Hottinger	Larson	Pappas	Scheevel
Belanger	Johnson, Dean	Lesewski	Pariseau	Schwab
Berg	Johnson, Debbie	Lessard	Reiter	Stevens
Day	Kierlin	Limmer	Rest	Stumpf
Dille	Kinkel	Neuville	Robertson	Terwilliger
Fischbach	Kiscaden	Oliver	Robling	Tomassoni
Fowler	Knutson	Olson	Sams	Vickerman
Frederickson	Langseth	Ourada	Samuelson	Wiener

The motion did not prevail. So the amendment was not adopted.

S.F. No. 3384 was read the third time, as amended, and placed on its final passage.

The question was taken on the passage of the bill, as amended.

The roll was called, and there were yeas 65 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Frederickson	Krentz	Olson	Sams
Bachmann	Higgins	Langseth	Orfield	Samuelson
Belanger	Hottinger	Larson	Ourada	Scheevel
Berg	Johnson, Dave	Lesewski	Pappas	Scheid
Berglin	Johnson, Dean	Lessard	Pariseau	Schwab
Betzold	Johnson, Debbie	Limmer	Pogemiller	Solon, Y.P.
Chaudhary	Johnson, Doug	Lourey	Price	Stevens
Cohen	Kelley, S.P.	Marty	Reiter	Stumpf
Day	Kierlin	Metzen	Rest	Terwilliger
Dille	Kinkel	Moua	Ring	Tomassoni
Fischbach	Kiscaden	Murphy	Robertson	Vickerman
Foley	Kleis	Neuville	Robling	Wiener
Fowler	Knutson	Oliver	Sabo	Wiger

So the bill, as amended, was passed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

Senator Stevens moved that S.F. No. 2594 be taken from the table. The motion prevailed.

S.F. No. 2594: A bill for an act relating to agriculture; creating the agriculture and renewable energy loan program; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 41B.

CALL OF THE SENATE

Senator Lourey imposed a call of the Senate for the balance of the proceedings on S.F. No. 2594. The Sergeant at Arms was instructed to bring in the absent members.

The question recurred on the adoption of the Lourey amendment.

The roll was called, and there were yeas 37 and nays 28, as follows:

Those who voted in the affirmative were:

Anderson	Betzold	Cohen	Fowler	Hottinger
Berglin	Chaudhary	Foley	Higgins	Johnson, Dave

Johnson, Dean	Marty	Pappas	Sams	Vickerman
Johnson, Doug	Metzen	Pogemiller	Samuelson	Wiener
Kelley, S.P.	Moe, R.D.	Price	Scheid	Wiger
Kinkel	Moua	Rest	Solon, Y.P.	
Krentz	Murphy	Ring	Stumpf	
Lourey	Orfield	Sabo	Tomassoni	

Those who voted in the negative were:

Bachmann	Frederickson	Langseth	Olson	Scheevel
Belanger	Johnson, Debbie	Larson	Ourada	Schwab
Berg	Kierlin	Lesewski	Pariseau	Stevens
Day	Kiscaden	Lessard	Reiter	Terwilliger
Dille	Kleis	Limmer	Robertson	
Fischbach	Knutson	Oliver	Robling	

The motion prevailed. So the amendment was adopted.

S.F. No. 2594 was read the third time, as amended, and placed on its final passage.

The question was taken on the passage of the bill, as amended.

The roll was called, and there were yeas 61 and nays 0, as follows:

Those who voted in the affirmative were:

Bachmann	Johnson, Dave	Lessard	Pariseau	Schwab
Berg	Johnson, Dean	Limmer	Pogemiller	Solon, Y.P.
Berglin	Johnson, Debbie	Lourey	Price	Stevens
Betzold	Kelley, S.P.	Marty	Reiter	Stumpf
Chaudhary	Kierlin	Metzen	Rest	Terwilliger
Cohen	Kinkel	Moe, R.D.	Ring	Tomassoni
Dille	Kiscaden	Moua	Robertson	Vickerman
Fischbach	Kleis	Murphy	Robling	Wiener
Foley	Knutson	Neuville	Sabo	Wiger
Fowler	Krentz	Oliver	Sams	
Frederickson	Langseth	Olson	Samuelson	
Higgins	Larson	Orfield	Scheevel	
Hottinger	Lesewski	Ourada	Scheid	

So the bill, as amended, was passed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Orders of Business of Messages From the House and First Reading of House Bills.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following House File, herewith transmitted: H.F. No. 3364.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted March 26, 2002

FIRST READING OF HOUSE BILLS

The following bill was read the first time.

H.F. No. 3364: A bill for an act relating to transportation; establishing major highway project account; authorizing bonding; exempting certain contracts from moratorium on state contracts for

professional or technical services; appropriating money; amending Laws 2002, chapter 220, article 10, section 37; proposing coding for new law in Minnesota Statutes, chapter 161.

Senator Moe, R.D. moved that H.F. No. 3364 be laid on the table. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

Senator Moe, R.D. moved that H.F. No. 2902 be taken from the table, and given a second reading. The motion prevailed.

H.F. No. 2902: A bill for an act relating to early childhood and family education; providing for children and family support, prevention, and self-sufficiency and lifelong learning programs; appropriating money and reducing earlier appropriations; amending Minnesota Statutes 2000, sections 124D.221, subdivision 2; 124D.52, subdivision 3; 124D.531, subdivision 4; Minnesota Statutes 2001 Supplement, section 124D.531, subdivision 1; Laws 2001, First Special Session chapter 3, article 1, section 17, subdivisions 3, as amended, 8, as amended, 9, as amended, 11, as amended; Laws 2001, First Special Session chapter 3, article 1, section 18, as amended; Laws 2001, First Special Session chapter 3, article 2, section 15, subdivision 3, as amended, 10; Laws 2001, First Special Session chapter 3, article 3, section 9, subdivisions 5, 7.

H.F. No. 2902 was read the second time.

Senator Moe, R.D. moved that H.F. No. 2902 be laid on the table. The motion prevailed.

Senator Moe, R.D. moved that H.F. No. 3011 be taken from the table, and given a second reading. The motion prevailed.

H.F. No. 3011: A bill for an act relating to economic development; reducing appropriations to certain agencies and programs; transferring funds from the Minnesota minerals 21st century fund; extending an appropriation; amending Laws 2001, First Special Session chapter 4, article 1, section 4, subdivision 3.

H.F. No. 3011 was read the second time.

Senator Moe, R.D. moved that H.F. No. 3011 be laid on the table. The motion prevailed.

Senator Neuville moved that H.F. No. 2780 be taken from the table. The motion prevailed.

H.F. No. 2780: A bill for an act relating to real property; creating a curative act for conveyances by counties; providing for recording of documents written in foreign language; providing for an affidavit of custodian; repealing sunset on nonconsensual common law lien statute; proposing coding for new law in Minnesota Statutes, chapters 507; 527; repealing Minnesota Statutes 2000, section 514.99, subdivision 6.

Senator Hottinger moved to amend H.F. No. 2780, as amended pursuant to Rule 45, adopted by the Senate March 25, 2002, as follows:

(The text of the amended House File is identical to S.F. No. 2541.)

Page 1, after line 11, insert:

"Section 1. Minnesota Statutes 2000, section 145.682, subdivision 6, is amended to read:

Subd. 6. [PENALTY FOR NONCOMPLIANCE.] (a) Failure to comply with subdivision 2, clause (1), within 60 days after demand for the affidavit results, upon motion, in mandatory dismissal with prejudice of each cause of action as to which expert testimony is necessary to establish a prima facie case.

(b) Failure to comply with subdivision 2, clause (2), ~~and subdivision 4~~ results, upon motion, in mandatory dismissal with prejudice of each cause of action as to which expert testimony is necessary to establish a prima facie case.

(c) Failure to comply with subdivision 4 because of deficiencies in the affidavit or answers to interrogatories results, upon motion, in mandatory dismissal with prejudice of each action as to which expert testimony is necessary to establish a prima facie case, provided that:

(1) the motion to dismiss the action identifies the claimed deficiencies in the affidavit or answers to interrogatories;

(2) the time for hearing the motion is at least 45 days from the date of service of the motion; and

(3) before the hearing on the motion, the plaintiff does not serve upon the defendant an amended affidavit or answers to interrogatories that correct the claimed deficiencies.

[EFFECTIVE DATE.] This section is effective August 1, 2002, and applies to causes of action arising from incidents occurring on or after that date.

Sec. 2. Minnesota Statutes 2000, section 481.13, is amended to read:

481.13 [LIEN FOR ATTORNEYS' FEES.]

Subdivision 1. [GENERALLY.] (a) An attorney has a lien for compensation whether the agreement ~~therefor be~~ for compensation is expressed or implied~~:~~ (1) upon the cause of action from the time of the service of the summons ~~therein~~ in the action, or the commencement of the proceeding, and (2) upon the interest of the attorney's client in any money or property involved in or affected by any action or proceeding in which the attorney may have been employed, from the commencement of the action or proceeding, and, as against third parties, from the time of filing the notice of ~~such~~ the lien claim, as provided in this section~~;~~.

~~(2)~~ (b) An attorney has a lien for compensation upon a judgment, ~~and~~ whether there ~~be~~ is a special express or implied agreement as to compensation, or whether a lien is claimed for the reasonable value of the services~~,~~. The lien ~~shall extend~~ extends to the amount ~~thereof~~ of the judgment from the time of giving notice of the claim to the judgment debtor~~, but this~~. The lien under this paragraph is subordinate to the rights existing between the parties to the action or proceeding~~;~~.

~~(3) The liens~~ (c) A lien provided by ~~clauses (1) and (2)~~ paragraphs (a) and (b) may be established, and the amount ~~thereof~~ of the lien may be determined, ~~by the court,~~ summarily~~, in the action or proceeding,~~ by the court under this paragraph on the application of the lien claimant or of any person or party interested in the property subject to ~~such~~ the lien~~, on such notice to all parties interested therein as the court may, by order to show cause, prescribe, or such liens may be enforced, and the amount thereof determined, by the court, in an action for equitable relief brought for that purpose~~.

Judgment shall be entered under the direction of the court, adjudging the amount due.

Subd. 2. [PERFECTION OF LIEN.] ~~(4)~~ (a) If the lien is claimed on the client's interest in real ~~estate~~ property involved in or affected by the action or proceeding, ~~such~~ a notice of intention to claim a lien ~~thereon~~ on the property ~~shall~~ must be filed in the office of the county recorder or registrar of titles, where appropriate, and ~~therein~~ noted on the certificate or certificates of title affected, in and for the county ~~within which~~ where the ~~same~~ real property is ~~situated~~ located. Within 30 days of filing a lien on real property, the claimant must prepare and deliver a written notice of the filing personally or by certified mail to the owner of the real property or the owner's authorized agent. A person who fails to provide the required notice shall not have the lien and remedy provided by this section. Upon receipt of payment in full of the debt which gave rise to the lien, the lienholder shall deliver within 30 days a recordable satisfaction and release of lien to the owner of the real property or the owner's authorized agent. No notice of intent to claim a lien may be filed more than 120 days after the last item of claim.

(b) If the lien is claimed on the client's interest in personal property involved in or affected by the action or proceeding, the notice ~~shall~~ must be filed in the same manner as provided by law for the filing of a security interest.

Subd. 3. [ONE-YEAR LIMITATION.] No lien against real property shall be enforced unless the lienholder, by filing either a complaint or an answer with the court administrator, asserts a lien within one year after the filing of the notice of intention to claim a lien, unless the owner has agreed to a longer time period to assert the lien. In no event may the lien be asserted more than three years after filing. No person is bound by any judgment in the action unless made a party to the action within the time limit. The absence from the record of a notice of lis pendens of an action after the expiration of the time limit in which the lien could be so asserted is conclusive evidence that the lien may no longer be enforced as to a bona fide purchaser, mortgagee, or encumbrancer without notice. In the case of registered land, the registrar of titles shall refrain from carrying forward to new certificates of title the memorials of lien statements when no notice of lis pendens has been registered within the time limit.

[EFFECTIVE DATE.] This section is effective August 1, 2002, and applies to a notice of intention to claim a lien filed on or after that date."

Page 4, after line 34, insert:

"Sec. 7. Minnesota Statutes 2000, section 573.02, subdivision 1, is amended to read:

Subdivision 1. When death is caused by the wrongful act or omission of any person or corporation, the trustee appointed as provided in subdivision 3 may maintain an action therefor if the decedent might have maintained an action, had the decedent lived, for an injury caused by the wrongful act or omission. An action to recover damages for a death caused by the alleged professional negligence of a physician, surgeon, dentist, hospital or sanitarium, or an employee of a physician, surgeon, dentist, hospital or sanitarium shall be commenced within ~~the time set forth in section 541.07, subdivision 1~~ three years of the date of death, but in no event shall be commenced beyond the time set forth in section 541.076. An action to recover damages for a death caused by an intentional act constituting murder may be commenced at any time after the death of the decedent. Any other action under this section may be commenced within three years after the date of death provided that the action must be commenced within six years after the act or omission. The recovery in the action is the amount the jury deems fair and just in reference to the pecuniary loss resulting from the death, and shall be for the exclusive benefit of the surviving spouse and next of kin, proportionate to the pecuniary loss severally suffered by the death. The court then determines the proportionate pecuniary loss of the persons entitled to the recovery and orders distribution accordingly. Funeral expenses and any demand for the support of the decedent allowed by the court having jurisdiction of the action, are first deducted and paid. Punitive damages may be awarded as provided in section 549.20.

If an action for the injury was commenced by the decedent and not finally determined while living, it may be continued by the trustee for recovery of damages for the exclusive benefit of the surviving spouse and next of kin, proportionate to the pecuniary loss severally suffered by the death. The court on motion shall make an order allowing the continuance and directing pleadings to be made and issues framed as in actions begun under this section.

[EFFECTIVE DATE.] This section is effective retroactive to August 1, 1999.

Sec. 8. Laws 1999, chapter 23, section 3, is amended to read:

Sec. 3. [EFFECTIVE DATE; APPLICATION.]

(a) Section 2 is effective August 1, 1999, and applies to actions ~~commenced~~ arising from incidents occurring on or after that date.

(b) Actions pending or commenced before August 1, 1999, are subject to the limitations period under Minnesota Statutes 1998, section 541.07, and are not revived by section 2.

(c) Section 2 also applies to actions commenced on or after August 1, 1999, and pending before August 1, 2001, including claims otherwise time barred under section 541.07.

(d) Section 2 does not revive actions commenced on or after August 1, 2001, from incidents occurring on or after August 1, 1995."

[EFFECTIVE DATE.] This section is effective retroactive to August 1, 1999."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

H.F. No. 2780 was read the third time, as amended, and placed on its final passage.

The question was taken on the passage of the bill, as amended.

The roll was called, and there were yeas 58 and nays 0, as follows:

Those who voted in the affirmative were:

Bachmann	Hottinger	Larson	Pariseau	Scheid
Berg	Johnson, Dave	Lesewski	Pogemiller	Schwab
Berglin	Johnson, Dean	Lessard	Price	Solon, Y.P.
Betzold	Johnson, Debbie	Limmer	Reiter	Stevens
Chaudhary	Kelley, S.P.	Lourey	Rest	Stumpf
Cohen	Kierlin	Marty	Ring	Terwilliger
Dille	Kinkel	Moua	Robertson	Tomassoni
Fischbach	Kiscaden	Murphy	Robling	Vickerman
Foley	Kleis	Neuville	Sabo	Wiener
Fowler	Knutson	Olson	Sams	Wiger
Frederickson	Krentz	Orfield	Samuelson	
Higgins	Langseth	Ourada	Scheevel	

So the bill, as amended, was passed and its title was agreed to.

INTRODUCTION AND FIRST READING OF SENATE BILLS

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

Senator Larson introduced--

S.F. No. 3454: A bill for an act relating to a baseball park; naming a state-financed major league baseball park.

Referred to the Committee on State and Local Government Operations.

Senators Anderson; Cohen; Johnson, Dave; Hottinger and Robertson introduced--

S.F. No. 3455: A resolution urging Congress to support the creation of a National Affordable Housing Trust Fund.

Referred to the Committee on Jobs, Housing and Community Development.

MEMBERS EXCUSED

Senator Ranum was excused from the Session of today. Senator Oliver was excused from the Session of today from 9:00 to 9:55 a.m. and at 2:15 p.m. Senator Johnson, Doug was excused from the Session of today from 9:00 to 10:15 a.m. Senator Terwilliger was excused from the Session of today from 9:00 to 10:40 a.m. Senator Lourey was excused from the Session of today from 9:00 a.m. to 12:40 p.m. Senator Samuelson was excused from the Session of today from 11:30 a.m. to 12:30 p.m. Senator Frederickson was excused from the Session of today from 12:05 to 1:30 p.m. Senator Kleis was excused from the Session of today from 12:25 to 12:35 p.m. Senator Ourada was excused from the Session of today from 12:40 to 1:00 p.m. Senator Moe, R.D. was excused from the Session of today from 1:00 to 2:05 p.m. Senator Anderson was

excused from the Session of today at 1:50 p.m. Senator Belanger was excused from the Session of today at 2:15 p.m.

ADJOURNMENT

Senator Hottinger moved that the Senate do now adjourn until 11:00 a.m., Wednesday, March 27, 2002. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate

INDEX TO DAILY JOURNAL

Tuesday, March 26, 2002

EXECUTIVE AND OFFICIAL COMMUNICATIONS

MESSAGES FROM THE HOUSE AND FIRST READINGS OF HOUSE FILES

CONCURRENCE AND REPASSAGE

REPORTS OF COMMITTEES AND SECOND READINGS

MOTIONS AND RESOLUTIONS

SPECIAL ORDERS

RECONSIDERATION

.

INTRODUCTION AND FIRST READING OF SENATE BILLS