

STATE OF MINNESOTA

# Journal of the Senate

EIGHTIETH LEGISLATURE

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EIGHTIETH DAY

St. Paul, Minnesota, Wednesday, February 25, 1998

The Senate met at 9.00 a.m. and was called to order by the President.

## CALL OF THE SENATE

Mr. 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, Major Paul H. Harwart.

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

Anderson	Higgins	Langseth	Olson	Scheid
Beckman	Hottinger	Larson	Ourada	Solon
Belanger	Janezich	Lesewski	Pappas	Spear
Berg	Johnson, D.E.	Lessard	Pariseau	Stevens
Berglin	Johnson, D.H.	Limmer	Piper	Stumpf
Betzold	Johnson, D.J.	Lourey	Pogemiller	Ten Eyck
Cohen	Johnson, J.B.	Marty	Price	Terwilliger
Day	Kelley, S.P.	Metzen	Ranum	Vickerman
Dille	Kelly, R.C.	Moe, R.D.	Robertson	Wiener
Fischbach	Kiscaden	Morse	Robling	Wiger
Flynn	Kleis	Murphy	Runbeck	
Foley	Knutson	Neuville	Sams	
Frederickson	Krentz	Novak	Samuelson	
Hanson	Laidig	Oliver	Scheevel	

The President declared a quorum present.

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

## MEMBERS EXCUSED

Ms. Junge was excused from the Session of today.

## REPORTS OF COMMITTEES

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

**Ms. Piper, Messrs. Pogemiller and Stumpf from the Committee on Children, Families and Learning, to which was re-referred**

**S.F. No. 2775:** A bill for an act relating to children; proposing an amendment to the Minnesota Constitution by adding a section to article XI; establishing the children's endowment fund; appropriating money; proposing coding for new law as Minnesota Statutes, chapter 119C.

Report the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [CONSTITUTIONAL AMENDMENT.]

An amendment to the Minnesota Constitution is proposed to the people. If the amendment is adopted, a new article XV shall be added to consist of the following renumbered sections and a new section to read:

ARTICLE XV  
EDUCATION

Section 1. [Article XIII, section 1, renumbered]

Sec. 2. [Article XIII, section 2, renumbered]

Sec. 3. [Article XIII, section 3, renumbered]

Sec. 4. The endowment fund for Minnesota's children is established in the state treasury. The principal of the children's endowment fund must be perpetual and inviolate forever. The net earnings from the fund must be appropriated by law for purposes that will enhance children's physical, emotional, and intellectual development through the age of six years.

Sec. 5. [Article XI, section 8, renumbered]

Sec. 6. [Article XI, section 9, renumbered]

Sec. 2. [SCHEDULE AND QUESTION.]

The amendment shall be submitted to the people at the 1998 general election. The question submitted shall be:

"Shall the Minnesota Constitution be amended to create a permanent endowment fund to enhance the development of young children through the age of six?"

Yes.....  
No....."

CHAPTER 119C

ENDOWMENT FOR MINNESOTA'S CHILDREN

Sec. 3. [FINDINGS.]

The legislature finds that the state's highest priority should be to ensure that all children have the opportunity to succeed. Scientific research shows that the electrical activity of brain cells actually changes the physical structure of the brain itself and that without a stimulating environment, a baby's brain will suffer. At birth, a baby's brain contains 100,000,000,000 neurons, roughly as many nerve cells as there are stars in the Milky Way. The wiring pattern between these neurons, which creates the brain's road map for successful learning, develops over time, with much of this development being completed before the child reaches the age of six. Children who play very little or are rarely touched develop brains that are 20 to 30 percent smaller than normal for their age.

This scientific evidence also conclusively demonstrates that enhancing children's physical, social, emotional, and intellectual development will result in tremendous benefits for children, families, and the state. Since more than 50 percent of the mothers of children under the age of three now work outside the home, our society must change to provide new supports so young children receive the attention and care that they need. Many Minnesota children live in poverty and, compared to other industrialized nations, the United States has a higher infant mortality rate, a higher proportion of low birth-weight babies, and a smaller proportion of babies immunized against childhood diseases. National and local studies have shown a strong link between increased

violence and crime among youth when there is no early intervention. This state will spend millions of dollars in the future on programs for at-risk or delinquent youth and child welfare programs that address crisis situations that frequently could be avoided or made much less severe with good early interventions. While this state and many local communities have developed successful early childhood efforts, a commitment of funds in a children's endowment fund dedicated to stimulating innovation and encouraging expansion of demonstrably successful projects that assist children through the age of six years could expand and enhance opportunities for young children.

Sec. 4. [119C.01] [DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] The definitions in this section apply to sections 119C.01 to 119C.05.

Subd. 2. [ENDOWMENT FUND.] "Endowment fund" means the children's endowment fund established in the Minnesota Constitution, article XI, section 15.

Subd. 3. [YOUNG CHILDREN.] "Young children" means children under the age of seven.

Sec. 5. [119C.02] [ENDOWMENT FUND NOT TO SUPPLANT EXISTING FUNDING.]

The endowment fund may not be used as a substitute for traditional sources of funding activities for young children and their parents, but the endowment fund must be used to supplement traditional sources, including sources used to support the activities in section 119C.04.

Sec. 6. [119C.03] [ENDOWMENT FUND ACCOUNT.]

Subdivision 1. [ESTABLISHMENT OF ACCOUNT AND INVESTMENT.] The children's endowment fund, under the Minnesota Constitution, article XI, section 15, is an account in the state treasury. The commissioner of finance shall credit to the endowment fund the amounts authorized under this section and section 119C.05. The state board of investment shall ensure that endowment fund money is invested under section 11A.24. All money earned by the endowment fund must be credited to the endowment fund. The principal of the endowment fund and any unexpended earnings must be invested and reinvested by the state board of investment.

Subd. 2. [REVENUE.] Nothing in sections 3 to 10 limits the source of contributions to the endowment fund.

Subd. 3. [GIFTS AND DONATIONS.] Gifts and donations may be made to the endowment fund. Noncash gifts and donations must be disposed of for cash as soon as the board prudently can maximize the value of the gift or donation. Gifts and donations of marketable securities may be held or disposed of for cash at the option of the board. The cash receipts of gifts and donations of cash or capital assets and marketable securities disposed of for cash must be credited immediately to the principal of the endowment fund. The value of marketable securities at the time the gift or donation is made must be credited to the principal of the endowment fund, and any earnings from the marketable securities are earnings of the endowment fund.

Subd. 4. [AUDITS REQUIRED.] The legislative auditor shall audit endowment fund expenditures to ensure that the money is spent for the purposes set out in section 119C.04.

Sec. 7. [119C.035] [GOVERNANCE.]

A nonprofit foundation in this state, which has a history of involvement with children's issues, selected by the governor, shall convene a work group of legislators and community and foundation representatives to develop a proposal for governance of the endowment for Minnesota's children. The foundation may hire consultants to facilitate the work group's exploration of alternative models of governance. The work group shall prepare a report and submit recommendations to the legislature by January 15, 1999, which include the governance structure, composition of the governing body, authority and responsibility for managing funds, and how to best focus the children's endowment funds to improve outcomes for children through the age of six years.

Sec. 8. [119C.04] [ENDOWMENT FUND EXPENDITURES.]

Money in the endowment fund may be spent for:

(1) research that contributes to increasing the understanding of the development of young children's brains or to developing new methods to increase the effectiveness of stimulation and educational activities that will improve brain development in young children;

(2) collection, analysis, and distribution of information to communities and families that assists in enhancing the development of young children;

(3) enhancement of public education, awareness, and understanding necessary for the promotion and encouragement of activities and decisions that protect and stimulate young children's development;

(4) supplemental funding to those projects that have demonstrated successful outcomes in improving and enhancing the development of young children;

(5) activities that link parenting education for parents to the availability of early childhood learning services for young children;

(6) activities that are designed to strengthen the quality of child care for young children and expand the supply of high quality child care services for young children;

(7) activities that increase the level of immunization and preventive health care screening and education for young children;

(8) activities that assist in the development and improved efficiency of community-based and family-based assistance activities for young children;

(9) activities that establish methods to evaluate how services can be more effectively delivered to young children and parents of young children;

(10) activities that strengthen families, neighborhoods, and communities by encouraging support, partnerships, and collaborations on behalf of young children and their families;

(11) activities that provide all three- and four-year-olds with access to a setting that offers both a high quality preschool experience and child care during the hours that parents work;

(12) activities that support neighborhoods in efforts to provide a family-friendly place from which infants and toddlers and their families would be provided opportunities for home visiting, family support, early education, and other community-based supports reaching out to the youngest children and their parents;

(13) activities that encourage that all young children and pregnant women receive the health care they require; and

(14) administrative and investment expenses incurred by the state board of investment in investing deposits to the endowment fund.

Activities in clauses (5) to (13) may include pilot projects or demonstration projects.

Sec. 9. [119C.05] [ROYALTIES; COPYRIGHTS; PATENTS.]

This section applies to projects supported by the endowment fund. The endowment fund owns and shall take title to the percentage of a royalty, copyright, or patent resulting from a project supported by the fund equal to the percentage of the project's total funding provided by the fund. Cash receipts resulting from a royalty, copyright, or patent, or the sale of the endowment fund's rights to a royalty, copyright, or patent, must be credited immediately to the principal of the endowment fund.

Sec. 10. [APPROPRIATION.]

If the constitutional amendment in section 1 is adopted, \$..... is appropriated from the general fund to the commissioner of finance for transfer to the children's endowment fund.

Sec. 11. [EFFECTIVE DATE.]

Sections 3 to 10 are effective the day after the constitutional amendment proposed in sections 1 and 2 is adopted."

Delete the title and insert:

"A bill for an act relating to children; proposing an amendment to the Minnesota Constitution by adding a section to article XI; establishing the children's endowment fund; requiring a work group to propose a governance structure for the endowment; appropriating money; proposing coding for new law as Minnesota Statutes, chapter 119C."

And when so amended the bill do pass and be re-referred to the Committee on Rules and Administration. Amendments adopted. Report adopted.

**Ms. Ranum from the Committee on Judiciary, to which was re-referred**

**S.F. No. 2879:** A bill for an act relating to agriculture; regulating security interests in agricultural crops; modifying the treatment of certain collateral; amending Minnesota Statutes 1996, sections 336.9-203; and 336.9-402.

Reports the same back with the recommendation that the bill be amended as follows:

Page 2, after line 17, insert:

"Sec. 2. Minnesota Statutes 1996, section 336.9-401, is amended to read:

336.9-401 [PLACE OF FILING; ERRONEOUS FILING; REMOVAL OF COLLATERAL.]

(1) The proper place to file in order to perfect a security interest is as follows:

(a) When the collateral is consumer goods, or motor vehicles which are not covered by a certificate of title, then in the office of the county recorder in the county of the debtor's residence if the debtor is an individual who is a resident of this state but if the debtor is an individual who is not a resident of this state or is a corporation, partnership or other organization then in the office of the secretary of state;

(b) When the collateral is equipment to be used in farming operations, or farm products, or accounts or general intangibles arising from or relating to the sale of farm products by a farmer, or crops growing or to be grown, then in the office of the county recorder in the county of the debtor's residence if the debtor is an individual or organization with residence in this state, but if the debtor is not a resident of this state, then in the office of the secretary of state; security interests covering crops growing or to be grown that are to be filed with the county recorder under this paragraph must be filed in the Uniform Commercial Code division of the recorder's office;

(c) When the collateral is timber to be cut or is minerals or the like (including oil and gas) or accounts subject to subsection (5) of section 336.9-103, or when the financing statement is filed as a fixture filing (section 336.9-313) and the collateral is goods which are or are to become fixtures, then in the office where a mortgage on the real estate would be filed or recorded;

(d) In all other cases, in the office of the secretary of state.

(2) A filing which is made in good faith in an improper place or not in all of the places required by this section is nevertheless effective with regard to any collateral as to which the filing complied with the requirements of this article and is also effective with regard to collateral covered by the financing statement against any person who has knowledge of the contents of such financing statement.

(3) A filing which is made in the proper place in this state continues effective even though the debtor's residence in this state or the use of the collateral, whichever controlled the original filing, is thereafter changed.

(4) The rules stated in section 336.9-103 determine whether filing is necessary in this state.

(5) Notwithstanding the preceding subsections, the proper place to file in order to perfect a security interest in collateral, including fixtures, of a transmitting utility is the office of the secretary of state. Such a filing shall not be deemed a separate filing from the filings required by other laws, if applicable, set forth in subsection (3) of section 336.9-302. This filing constitutes a fixture filing (section 336.9-313) as to the collateral described therein which is or is to become fixtures.

(6) For the purposes of this section, the residence of an organization is its place of business if it has one or its chief executive office if it has more than one place of business.

(7) "Motor vehicle" means any device propelled or drawn by any power other than muscular power in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting building and road construction equipment and vehicles that are inventory of licensed dealers."

Page 2, lines 22 and 23, delete the new language

Page 7, line 1, delete "and 2" and insert "to 3" and delete "Section 1" and insert "Section 2"

Page 7, line 3, delete "2" and insert "3"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 5, after the semicolon, insert "336.9-401;"

And when so amended the bill do pass. Amendments adopted. Report adopted.

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

**H.F. No. 3040** 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.
				3040	2355

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 3040 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 3040 and insert the language after the enacting clause of S.F. No. 2355, the first engrossment; further, delete the title of H.F. No. 3040 and insert the title of S.F. No. 2355, the first engrossment.

And when so amended H.F. No. 3040 will be identical to S.F. No. 2355, and further recommends that H.F. No. 3040 be given its second reading and substituted for S.F. No. 2355, and that the Senate File be indefinitely postponed.

Pursuant to Rule 49, 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.

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

**H.F. No. 2309** for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for its companion Senate File as follows:

**GENERAL ORDERS**

H.F. No.	S.F. No.
2309	2136

**CONSENT CALENDAR**

H.F. No.	S.F. No.
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**CALENDAR**

H.F. No.	S.F. No.
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and that the above Senate File be indefinitely postponed.

Pursuant to Rule 49, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Report adopted.

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

**H.F. No. 2846** for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

**GENERAL ORDERS**

H.F. No.	S.F. No.
2846	2245

**CONSENT CALENDAR**

H.F. No.	S.F. No.
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**CALENDAR**

H.F. No.	S.F. No.
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Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 2846 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 2846 and insert the language after the enacting clause of S.F. No. 2245, the first engrossment; further, delete the title of H.F. No. 2846 and insert the title of S.F. No. 2245, the first engrossment.

And when so amended H.F. No. 2846 will be identical to S.F. No. 2245, and further recommends that H.F. No. 2846 be given its second reading and substituted for S.F. No. 2245, and that the Senate File be indefinitely postponed.

Pursuant to Rule 49, 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.

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

**H.F. No. 2654** for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

**GENERAL ORDERS**

H.F. No.	S.F. No.
2654	2318

**CONSENT CALENDAR**

H.F. No.	S.F. No.
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**CALENDAR**

H.F. No.	S.F. No.
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Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 2654 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 2654 and insert the language after the enacting clause of S.F. No. 2318, the first engrossment; further, delete the title of H.F. No. 2654 and insert the title of S.F. No. 2318, the first engrossment.

And when so amended H.F. No. 2654 will be identical to S.F. No. 2318, and further recommends that H.F. No. 2654 be given its second reading and substituted for S.F. No. 2318, and that the Senate File be indefinitely postponed.

Pursuant to Rule 49, 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.

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

**H.F. No. 3332** for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

<b>GENERAL ORDERS</b>		<b>CONSENT CALENDAR</b>		<b>CALENDAR</b>	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
3332	2949				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 3332 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 3332 and insert the language after the enacting clause of S.F. No. 2949, the first engrossment; further, delete the title of H.F. No. 3332 and insert the title of S.F. No. 2949, the first engrossment.

And when so amended H.F. No. 3332 will be identical to S.F. No. 2949, and further recommends that H.F. No. 3332 be given its second reading and substituted for S.F. No. 2949, and that the Senate File be indefinitely postponed.

Pursuant to Rule 49, 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 SENATE BILLS**

S.F. No. 2879 was read the second time.

### **SECOND READING OF HOUSE BILLS**

H.F. Nos. 3040, 2309, 2846, 2654 and 3332 were read the second time.

### **MOTIONS AND RESOLUTIONS**

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated S.F. No. 3367 a Special Order to be heard immediately.

### **SPECIAL ORDER**

**S.F. No. 3367:** A bill for an act relating to economic development; appropriating money for housing, economic development, and related purposes; establishing pilot projects; providing for a municipal reimbursement; modifying certain loan criteria; requiring studies; establishing a revolving loan fund; requiring the commissioner of labor and industry to provide a brochure; regulating housing; uniform acts; unclaimed property; enacting the Uniform Unclaimed Property Act of 1995; making conforming changes; providing for the Minnesota family assets for independence initiative; amending Minnesota Statutes 1996, sections 16A.45, subdivisions 1 and 4; 80C.03; 116J.415, subdivision 5; 198.231; 276.19, subdivision 4; 308A.711, subdivisions 1 and 2; 356.65, subdivision 2; 462A.222, subdivision 3; 474A.061, subdivision 2a; and 624.68; Minnesota Statutes 1997 Supplement, sections 16A.6701, subdivision 1; 116J.421, subdivision 1, and by adding a subdivision; and 462A.05, subdivision 39; proposing coding for new law in Minnesota Statutes, chapters 116J; 181; 345; and 471; proposing coding for new law as Minnesota Statutes, chapter 119C; repealing Minnesota Statutes 1996, sections 345.31; 345.32; 345.33; 345.34; 345.35; 345.36; 345.37; 345.38; 345.381; 345.39; 345.40; 345.41; 345.42; 345.43; 345.44; 345.45; 345.46; 345.47; 345.485; 345.49; 345.50; 345.51; 345.515; 345.52; 345.525; 345.53; 345.54; 345.55; 345.56; 345.57; 345.58; 345.59; and 345.60; Minnesota Statutes 1997 Supplement, section 345.48.

Mr. Vickerman moved to amend S.F. No. 3367 as follows:



Page 14, after line 28, insert:

"Sec. 19. [MINNESOTA INVESTMENT FUND; CITY OF LUVERNE.]

Notwithstanding the grant limit contained in Minnesota Statutes, section 116J.8731, subdivision 5, a grant of up to \$1,000,000 may be made to the city of Luverne to offset severe job losses due to plant closings."

Page 26, line 13, after "16" insert ", 19,"

Renumber the sections in sequence and correct the internal references

The motion prevailed. So the amendment was adopted.

### RECONSIDERATION

Having voted on the prevailing side, Mr. Beckman moved that the vote whereby the Vickerman amendment to S.F. No. 3367 was adopted on February 25, 1998, be now reconsidered. The motion prevailed. So the vote was reconsidered.

The question was taken on the adoption of the Vickerman amendment. The motion prevailed. So the amendment was adopted.

Mr. Kelley, S.P. moved to amend S.F. No. 3367 as follows:

Page 40, after line 21, insert:

"(d) The administrator shall provide the Minnesota historical society with an inventory of abandoned property, other than money, six months prior to public sale. The society may select for its collections any items it finds of historical value. The society shall make its selection before the administrator appraises or sorts the material for public sale. The society has 90 days from the date of notification by the administrator to exercise the authority granted by this subdivision. The society shall receive title to the property selected free from all claims of the owner or prior holder and of all persons claiming through or under them. The administrator shall execute all documents necessary to complete the transfer of title."

The motion prevailed. So the amendment was adopted.

Ms. Runbeck moved to amend S.F. No. 3367 as follows:

Page 11, line 8, delete "paragraphs" and insert "paragraph"

Page 11, delete lines 9 to 12

Page 12, delete lines 19 to 36

Page 13, delete lines 1 to 22

Page 13, line 23, delete "(b)"

Correct the subdivision and section totals and the summaries by fund accordingly

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

S.F. No. 3367 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 50 and nays 14, as follows:

Those who voted in the affirmative were:

Anderson  
Beckman

Berglin  
Betzold

Cohen  
Day

Dille  
Flynn

Foley  
Frederickson

Hanson	Kelley, S.P.	Lourey	Pappas	Solon
Higgins	Kelly, R.C.	Marty	Piper	Spear
Hottinger	Kleis	Metzen	Pogemiller	Stumpf
Janezich	Knutson	Moe, R.D.	Price	Ten Eyck
Johnson, D.E.	Krentz	Morse	Ranum	Terwilliger
Johnson, D.H.	Langseth	Murphy	Sams	Vickerman
Johnson, D.J.	Larson	Novak	Samuelson	Wiener
Johnson, J.B.	Lesewski	Oliver	Scheid	Wiger

Those who voted in the negative were:

Belanger	Kiscaden	Olson	Robertson	Scheevel
Berg	Limmer	Ourada	Robling	Stevens
Fischbach	Neuville	Pariseau	Runbeck	

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

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated S.F. No. 3354 a Special Order to be heard immediately.

### SPECIAL ORDER

**S.F. No. 3354:** A bill for an act relating to the organization and operation of state government; appropriating money for the general administrative expenses of state government; modifying provisions relating to state government operations; modifying budget preparation provisions; providing for reimbursement of the health care access fund; amending Minnesota Statutes 1996, sections 3.3005, by adding a subdivision; 16A.055, subdivision 6; 16A.10, as amended; 16A.11, subdivision 3, and by adding a subdivision; 16A.501; 16A.72; 16B.04, subdivision 4; 16B.30; 17.03, subdivision 11; 43A.04, subdivision 1a; 43A.317, subdivision 8; 45.012; 84.027, subdivision 14; 116.03, subdivision 2a; 116J.011; 144.05, subdivision 2; 174.02, subdivision 1a; 175.001, subdivision 6; 190.09, subdivision 2; 196.05, subdivision 2; 216A.07, subdivision 6; 268.0122, subdivision 6; 270.02, subdivision 3a; 299A.01, subdivision 1a; 352D.12; 363.05, subdivision 3; and 469.177, subdivision 11; Minnesota Statutes 1997 Supplement, sections 16A.11, subdivision 1; 120.0111; 241.01, subdivision 3b; and 245.03, subdivision 2; amending Laws 1997 chapter 202, article 1, section 11; and Laws 1997, Second Special Session chapter 2, section 8; proposing coding for new law in Minnesota Statutes, chapters 16B; 214; and 325G; repealing Minnesota Statutes 1996, sections 3.971, subdivision 3; 15.90; 15.91; and 15.92; Minnesota Statutes 1997 Supplement, sections 16A.11, subdivision 3c; and 241.015.

Mr. Stevens moved to amend S.F. No. 3354 as follows:

Page 2, line 11, delete "\$24,441,000" and insert "\$22,916,000"

Page 3, line 32, delete "\$3,564,000" and insert "\$5,000,000"

Correct the subdivision and section totals and the summaries by fund accordingly

### CALL OF THE SENATE

Mr. Cohen imposed a call of the Senate for the balance of the proceedings on S.F. No. 3354. The Sergeant at Arms was instructed to bring in the absent members.

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 24 and nays 34, as follows:

Those who voted in the affirmative were:

Belanger	Johnson, D.E.	Larson	Olson	Runbeck
Berg	Kiscaden	Lesewski	Ourada	Scheevel
Day	Kleis	Limmer	Pariseau	Stevens
Dille	Knutson	Neuville	Robertson	Terwilliger
Fischbach	Laidig	Oliver	Robling	

Those who voted in the negative were:

Anderson	Hanson	Kelley, S.P.	Piper	Spear
Beckman	Higgins	Krentz	Pogemiller	Stumpf
Berglin	Hottinger	Lourey	Price	Ten Eyck
Betzold	Janezich	Metzen	Ranum	Vickerman
Cohen	Johnson, D.H.	Moe, R.D.	Sams	Wiener
Flynn	Johnson, D.J.	Murphy	Samuelson	Wiger
Foley	Johnson, J.B.	Pappas	Scheid	

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

Mr. Stevens then moved to amend S.F. No. 3354 as follows:

Pages 37 to 39, delete section 53

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 24 and nays 33, as follows:

Those who voted in the affirmative were:

Belanger	Frederickson	Laidig	Olson	Runbeck
Berg	Johnson, D.E.	Lesewski	Ourada	Scheevel
Day	Kiscaden	Limmer	Pariseau	Stevens
Dille	Kleis	Neuville	Robertson	Terwilliger
Fischbach	Knutson	Oliver	Robling	

Those who voted in the negative were:

Beckman	Hottinger	Larson	Pogemiller	Spear
Berglin	Johnson, D.H.	Lourey	Price	Stumpf
Betzold	Johnson, J.B.	Metzen	Ranum	Vickerman
Cohen	Kelley, S.P.	Moe, R.D.	Sams	Wiener
Flynn	Kelly, R.C.	Murphy	Samuelson	Wiger
Foley	Krentz	Pappas	Scheid	
Higgins	Langseth	Piper	Solon	

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

Mr. Stumpf moved to amend S.F. No. 3354 as follows:

Page 39, lines 24 and 25, delete "July 1, 1998" and insert "January 1, 1999"

The motion prevailed. So the amendment was adopted.

Mr. Knutson moved to amend S.F. No. 3354 as follows:

Page 5, after line 22, insert:

"Sec. 13. Minnesota Statutes 1996, section 10A.02, subdivision 14, is amended to read:

Subd. 14. [LEGAL COUNSEL.] Notwithstanding the provisions of section 8.15 8.06, the board ~~must not be assessed the cost of legal services rendered to it by the attorney general's office~~ shall employ counsel other than the attorney general to provide all necessary legal services. The board may request advice from the chief justice of the supreme court on the proper compensation for legal counsel.

Sec. 14. [PAYMENT OF LEGAL COUNSEL COSTS.]

Until June 30, 1999, the state campaign finance and public disclosure board shall submit the bills for employment of necessary legal counsel to the attorney general, who shall pay them."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 24 and nays 35, as follows:

Those who voted in the affirmative were:

Belanger	Frederickson	Larson	Olson	Runbeck
Berg	Johnson, D.E.	Lesewski	Ourada	Scheevel
Day	Kleis	Limmer	Pariseau	Stevens
Dille	Knutson	Neuville	Robertson	Terwilliger
Fischbach	Laidig	Oliver	Robling	

Those who voted in the negative were:

Beckman	Higgins	Krentz	Piper	Solon
Berglin	Hottinger	Langseth	Pogemiller	Spear
Betzold	Johnson, D.H.	Lourey	Price	Stumpf
Cohen	Johnson, D.J.	Metzen	Ranum	Ten Eyck
Flynn	Johnson, J.B.	Moe, R.D.	Sams	Vickerman
Foley	Kelley, S.P.	Morse	Samuelson	Wiener
Hanson	Kelly, R.C.	Pappas	Scheid	Wiger

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

### RECONSIDERATION

Having voted on the prevailing side, Mr. Stumpf moved that the vote whereby the Stumpf amendment to S.F. No. 3354 was adopted on February 25, 1998, be now reconsidered. The motion prevailed. So the vote was reconsidered.

The question was taken on the adoption of the Stumpf amendment. The motion prevailed. So the amendment was adopted.

Mr. Neuville moved to amend S.F. No. 3354 as follows:

Page 39, after line 14, insert:

"Sec. 54. [ATTORNEY GENERAL PUBLIC SERVICE ANNOUNCEMENTS.]

Until November 15, 1998, any public service announcements or ads produced or paid for by the office of the attorney general must not include the name, voice, or image of the attorney general."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Mr. Kelley, S.P. moved to amend the Neuville amendment to S.F. No. 3354 as follows:

Page 1, line 3, delete "ATTORNEY GENERAL" and insert "CONSTITUTIONAL OFFICER"

Page 1, lines 5 and 6, delete "the attorney general" and insert "any constitutional officer"

Page 1, line 7, delete "attorney general" and insert "constitutional officer"

The motion prevailed. So the amendment to the amendment was adopted.

The question recurred on the Neuville amendment, as amended.

The roll was called, and there were yeas 25 and nays 37, as follows:

Those who voted in the affirmative were:

Belanger	Day	Fischbach	Johnson, D.E.	Kleis
Berg	Dille	Frederickson	Kiscaden	Knutson

Laidig  
Larson  
Lesewski

Limmer  
Neuville  
Oliver

Olson  
Ourada  
Pariseau

Robertson  
Robling  
Runbeck

Scheevel  
Stevens  
Terwilliger

Those who voted in the negative were:

Anderson  
Beckman  
Berglin  
Betzold  
Cohen  
Flynn  
Foley  
Hanson

Higgins  
Hottinger  
Janezich  
Johnson, D.H.  
Johnson, D.J.  
Johnson, J.B.  
Kelley, S.P.  
Krentz

Langseth  
Lourey  
Metzen  
Moe, R.D.  
Morse  
Murphy  
Pappas  
Piper

Pogemiller  
Price  
Ranum  
Sams  
Samuelson  
Scheid  
Solon  
Spear

Stumpf  
Ten Eyck  
Vickerman  
Wiener  
Wiger

The motion did not prevail. So the Neuville amendment, as amended, was not adopted.

Mr. Johnson, D.E. moved to amend S.F. No. 3354 as follows:

Page 35, after line 36, insert:

"Sec. 51. Laws 1994, chapter 632, article 3, section 12, as amended by Laws 1995, First Special Session chapter 2, article 1, section 40, is amended to read:

Sec. 12. MILITARY AFFAIRS

50,000

This appropriation is to the adjutant general for a grant to the Minnesota National Guard youth camp to set up and provide initial funding for a foundation to run the camp. The appropriation is available only as matched, dollar for dollar, by an equal amount from nonstate sources. Matching money received after January 1, 1998, may be counted as match for any appropriations for this project made after that date."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Mr. Neuville moved to amend S.F. No. 3354 as follows:

Page 39, after line 14, insert:

"Sec. 54. [TOBACCO LAWSUIT SETTLEMENT.]

The attorney general may not enter into any settlement agreement relating to the suit known as State of Minnesota by Hubert H. Humphrey, III, its Attorney General, and Blue Cross and Blue Shield of Minnesota v. Philip Morris, Inc., et al., No. C1-94-8565, 2nd Judicial District, Ramsey County, unless the terms of the settlement agreement have first been approved by the governor.

If there is a national settlement of tobacco litigation that provides any proceeds to this state, the proceeds must be deposited in the state treasury and credited to the general fund."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 27 and nays 37, as follows:

Those who voted in the affirmative were:

Belanger	Johnson, D.J.	Lesewski	Pariseau	Stevens
Berg	Kiscaden	Limmer	Robertson	Stumpf
Day	Kleis	Neuville	Robling	Terwilliger
Dille	Knutson	Oliver	Runbeck	
Frederickson	Laidig	Olson	Sams	
Johnson, D.E.	Larson	Ourada	Scheevel	

Those who voted in the negative were:

Anderson	Higgins	Langseth	Pappas	Spear
Beckman	Hottinger	Lourey	Piper	Ten Eyck
Berglin	Janezich	Marty	Pogemiller	Vickerman
Betzold	Johnson, D.H.	Metzen	Price	Wiener
Cohen	Johnson, J.B.	Moe, R.D.	Ranum	Wiger
Flynn	Kelley, S.P.	Morse	Samuelson	
Foley	Kelly, R.C.	Murphy	Scheid	
Hanson	Krentz	Novak	Solon	

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

Mr. Neuville then moved to amend S.F. No. 3354 as follows:

Page 39, after line 14, insert:

"Sec. 54. [TOBACCO LAWSUIT PROCEEDS.]

Any money paid to the state of Minnesota pursuant to a judgment in the suit known as State of Minnesota by Hubert H. Humphrey, III, its Attorney General, et al. v. Philip Morris, Inc., et al., No. C1-94-8565, 2nd Judicial District, Ramsey County, must be deposited in the state treasury and credited to the general fund."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 30 and nays 34, as follows:

Those who voted in the affirmative were:

Belanger	Johnson, D.E.	Laidig	Olson	Sams
Berg	Johnson, D.J.	Larson	Ourada	Scheevel
Berglin	Kelly, R.C.	Lesewski	Pariseau	Stevens
Day	Kiscaden	Limmer	Robertson	Stumpf
Dille	Kleis	Neuville	Robling	Terwilliger
Frederickson	Knutson	Oliver	Runbeck	Wiger

Those who voted in the negative were:

Anderson	Higgins	Langseth	Novak	Scheid
Beckman	Hottinger	Lourey	Pappas	Solon
Betzold	Janezich	Marty	Piper	Spear
Cohen	Johnson, D.H.	Metzen	Pogemiller	Ten Eyck
Flynn	Johnson, J.B.	Moe, R.D.	Price	Vickerman
Foley	Kelley, S.P.	Morse	Ranum	Wiener
Hanson	Krentz	Murphy	Samuelson	

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

S.F. No. 3354 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 6, as follows:

Those who voted in the affirmative were:

Anderson	Belanger	Berglin	Cohen	Dille
Beckman	Berg	Betzold	Day	Flynn

Foley	Kelley, S.P.	Lourey	Piper	Spear
Frederickson	Kelly, R.C.	Marty	Pogemiller	Stevens
Hanson	Kiscaden	Metzen	Price	Stumpf
Higgins	Kleis	Moe, R.D.	Ranum	Ten Eyck
Hottinger	Knutson	Morse	Robling	Terwilliger
Janezich	Krentz	Murphy	Runbeck	Vickerman
Johnson, D.E.	Laidig	Novak	Sams	Wiener
Johnson, D.H.	Langseth	Oliver	Samuelson	Wiger
Johnson, D.J.	Larson	Ourada	Scheid	
Johnson, J.B.	Lesewski	Pappas	Solon	

Those who voted in the negative were:

Limmer	Olson	Pariseau	Robertson	Scheevel
Neuville				

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

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated H.F. No. 3640 a Special Order to be heard immediately.

### SPECIAL ORDER

**H.F. No. 3640:** A bill for an act relating to education; allowing a donation of accrued sick time for certain Minnesota state college and university employees; proposing coding for new law in Minnesota Statutes, chapter 136F.

Mr. Larson moved that S.F. No. 3640 be laid on the table. The motion prevailed.

### MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate proceeded to the Order of Business of Introduction and First Reading of Senate Bills.

### INTRODUCTION AND FIRST READING OF SENATE BILLS

The following bills were read the first time and referred to the committees indicated.

**Mses. Johnson, J.B.; Flynn; Messrs. Langseth; Johnson, D.E. and Belanger introduced--**

**S.F. No. 3375:** A bill for an act relating to transportation; authorizing spending to acquire and to better public land and buildings and other public improvements of a capital nature with certain conditions; authorizing issuance of bonds; appropriating money.

Referred to the Committee on State Government Finance.

**Ms. Berglin, Messrs. Johnson, D.J.; Moe, R.D.; Hottinger and Novak introduced--**

**S.F. No. 3376:** A bill for an act relating to taxation; requiring the state to make a cash investment for each child in the state as an alternative to tax credits; restricting the use of the amount invested; providing a subtraction from federal taxable income of earnings on the investment; appropriating money; amending Minnesota Statutes 1997 Supplement, section 290.01, subdivision 19b; proposing coding for new law in Minnesota Statutes, chapter 119A.

Referred to the Committee on Taxes.

**Messrs. Novak; Johnson, D.H. and Belanger introduced--**

**S.F. No. 3377:** A bill for an act relating to property taxation; exempting electric utility

generation attached machinery; establishing a temporary in-lieu tax; establishing temporary surcharge; providing a state guarantee and appropriation for certain local bonds; amending Minnesota Statutes 1996, section 124A.24; Minnesota Statutes 1997 Supplement, sections 272.02, subdivision 1; and 273.13, subdivision 31; proposing coding for new law in Minnesota Statutes, chapters 216B; 275; and 475A.

Referred to the Committee on Taxes.

**Messrs. Pogemiller, Wiger, Mses. Robertson, Krentz and Olson introduced--**

**S.F. No. 3378:** A bill for an act relating to education; prekindergarten through grade 12; providing for general education; special education; interagency service; lifelong learning; technology; facilities and organization; academic excellence; education policy; state agencies; appropriating money; amending Minnesota Statutes 1996, sections 15.014, subdivision 3; 119B.20, subdivisions 5, 8, and 12; 120.03, subdivisions 1 and 5; 120.06, subdivision 2a; 120.062, subdivision 5; 120.064, subdivisions 4, 5, 9, 14, 17, 21, and 24; 120.101, subdivisions 3, 7, and 8; 120.102, subdivision 3; 120.17, subdivisions 1, 2, 3, 3a, 3b, 7a, 9, and 15; 120.1701, subdivisions 2, 5, 11, and 17; 120.173, subdivisions 1 and 6; 120.66, subdivisions 1 and 2; 120.73, subdivision 1; 120.74, subdivision 1; 121.02, subdivision 1; 121.11, subdivision 7d; 121.1115, subdivision 1, and by adding a subdivision; 121.14; 121.148, subdivision 3; 121.16, by adding subdivisions; 121.1601, subdivision 2; 121.612, subdivisions 2, 3, 6, 7, and 9; 121.908, subdivisions 2 and 3; 121.932, subdivision 5, and by adding a subdivision; 122.23, subdivisions 2b and 6; 123.34, subdivision 9; 123.35, subdivision 19a; 123.3514, by adding a subdivision; 123.39, subdivision 1, and by adding a subdivision; 123.805, subdivision 1; 123.935, subdivisions 1 and 2; 124.078; 124.17, subdivision 2; 124.225, subdivisions 7f and 8m; 124.239, as amended; 124.248, subdivisions 1 and 1a; 124.26, subdivision 1c; 124.2713, subdivision 6a; 124.2727, subdivisions 6a and 6c; 124.273, by adding a subdivision; 124.32, by adding a subdivision; 124.3201, subdivision 5; 124.646, subdivision 4; 124.755, subdivision 1; 124.83, subdivision 8; 124.84, subdivisions 3 and 4; 124.85, subdivision 4; 124.91, subdivisions 2, 4, and 6; 124.95, as amended; 124A.03, subdivision 3c; 124A.034, subdivision 2; 124A.036, subdivisions 1a, 4, 6, and by adding a subdivision; 124A.22, by adding a subdivision; 124A.29, subdivision 1; 124A.292, subdivision 3; 124A.30; 124C.45, subdivision 2; 124C.47; 124C.48, by adding a subdivision; 125.05, subdivisions 4 and 8; 125.183, subdivisions 1 and 3; 125.1885, subdivisions 1, 4, and 5; 125.191; 126.237; 126.70, subdivision 2a; 127.27, subdivision 2; 128A.02, subdivisions 1, 3, 3b, 5, 6, and by adding subdivisions; 128A.022; 128A.023, subdivisions 1 and 2; 128A.026, subdivisions 1 and 3; 128A.07, subdivision 2; 169.448, subdivision 2; 169.451, subdivision 5; 256B.0625, subdivision 26; 268.665, subdivision 3; and 471.18; Minnesota Statutes 1997 Supplement, sections 16B.465, subdivision 4; 120.05, subdivision 2; 120.064, subdivisions 3, 8, 10, and 14a; 120.1045, subdivision 1; 120.1701, subdivision 3; 121.1113, subdivision 1; 121.15, subdivision 6; 121.615, subdivisions 2, 6, 7, and 10; 121.904, subdivision 4a; 124.17, subdivisions 1d, 4, 6, and 7; 124.195, subdivision 7; 124.248, subdivisions 2a and 6; 124.26, subdivision 2; 124.2601, subdivisions 3 and 6; 124.2711, subdivision 2a; 124.2713, subdivision 6; 124.3111, subdivision 2; 124.6475; 124.648, subdivision 3; 124.91, subdivisions 1, 5, and 7, as amended; 124.961; 124A.036, subdivision 5; 124A.22, subdivisions 2, 11, and 13b; 124A.23, subdivision 1; 124A.28, subdivisions 1 and 1a; 124C.46, subdivisions 1 and 2; 125.05, subdivisions 1c and 2; 126.79, subdivisions 6, 7, 8, and 9; 127.27, subdivisions 10 and 11; 127.31, subdivision 15; 127.32; 127.36, subdivision 1; 127.38; 128A.02, subdivision 7; 169.01, subdivision 6; 169.974, subdivision 2; 268.665, subdivision 2; and 290.0674, subdivision 1; Laws 1992, chapter 499, article 7, section 31; Laws 1993, chapter 224, article 3, section 32; Laws 1997, chapter 157, section 71; Laws 1997, First Special Session chapter 4, article 1, section 61, subdivision 3; article 2, section 51, subdivisions 15, 25, 29, and 33; article 3, section 25, subdivision 4; article 4, sections 33, 34, and 35, subdivision 9; article 5, section 28, subdivisions 9, 10, 11, and 12; article 6, section 20, subdivision 4; article 8, section 4, subdivision 3; article 9, section 11; article 10, sections 3, subdivision 2; 4, and 5; proposing coding for new law in Minnesota Statutes, chapters 120; 123; and 124A; repealing Minnesota Statutes 1996, sections 121.02, subdivisions 2a, 3, and 4; 121.11, subdivisions 5, 7, 7b, 7d, 9, 11, 12, and 14; 121.904, subdivision 4c; 124.2601, subdivision 4; 124.2713, subdivision 6b; 124.2727, subdivision 6b; 124.32, subdivision 13; 124.491; 124.492; 124.493; 124.494; 124.4945; 124.4946; 124.495; 124.647; 124.82; 124.83, subdivisions 4, 5, and 7; 124A.292, subdivisions 2 and 4; 124C.55; 124C.56; 124C.57; 124C.60,



subdivision 2; 124C.71; 124C.72; 124C.73; and 126.12; Minnesota Statutes 1997 Supplement, sections 120.1015; 121.11, subdivision 7e; 124.155, subdivisions 1 and 2; 124.2601, subdivision 5; 124.825, subdivisions 3 and 4; 124.912, subdivisions 2 and 3; 124C.60, subdivisions 1 and 3; and 169.452; Laws 1997, chapter 231, article 1, section 17; Minnesota Rules, part 3525.2750, subpart 1, item B.

Referred to the Committee on Education Finance. Mr. Samuelson questioned the reference thereon and, under Rule 35, the bill was referred to the Committee on Rules and Administration.

**Messrs. Beckman; Novak; Johnson, D.J.; Murphy and Johnson, D.E. introduced--**

**S.F. No. 3379:** A bill for an act relating to public administration; authorizing spending to acquire and to better public land and buildings and other improvements of a capital nature with certain conditions; authorizing issuance of bonds; appropriating money; amending Laws 1990, chapter 610, article 1, section 16, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter 116J.

Referred to the Committee on Human Resources Finance.

**RECESS**

Mr. Moe, R.D. moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

**CALL OF THE SENATE**

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

**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 Reports of Committees and Second Reading of Senate Bills.

**REPORTS OF COMMITTEES**

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

**Ms. Ranum from the Committee on Judiciary, to which was referred**

**S.F. No. 2050:** A bill for an act relating to health; modifying provisions governing advance health care directives; combining laws governing living wills and durable power of attorney for health care; amending Minnesota Statutes 1996, sections 144.335, subdivision 1; 145C.01, subdivisions 2, 3, 4, 8, and by adding subdivisions; 145C.02; 145C.03; 145C.04; 145C.05, subdivision 2, and by adding a subdivision; 145C.06; 145C.07; 145C.08; 145C.09; 145C.10; 145C.11; 145C.12; 145C.13, subdivision 1; 525.55, subdivisions 1 and 2; 525.551, subdivisions 1 and 5; and 525.9212; Minnesota Statutes 1997 Supplement, sections 14.03, subdivision 3; 149A.80, subdivision 2; and 253B.04, subdivision 1a; proposing coding for new law in Minnesota Statutes, chapters 145B; and 145C; repealing Minnesota Statutes 1996, sections 145C.05, subdivision 1; and 145C.15.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1996, section 144.335, subdivision 1, is amended to read:

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

(a) "Patient" means a natural person who has received health care services from a provider for treatment or examination of a medical, psychiatric, or mental condition, the surviving spouse and parents of a deceased patient, or a person the patient designates appoints in writing as a representative, including a health care agent acting pursuant to chapter 145C, unless the authority of the agent has been limited by the principal in the principal's health care directive. Except for minors who have received health care services pursuant to sections 144.341 to 144.347, in the case of a minor, patient includes a parent or guardian, or a person acting as a parent or guardian in the absence of a parent or guardian.

(b) "Provider" means (1) any person who furnishes health care services and is licensed to furnish the services pursuant to chapter 147, 148, 148B, 150A, 151, or 153; (2) a home care provider licensed under section 144A.46; (3) a health care facility licensed pursuant to this chapter or chapter 144A; (4) a physician assistant registered under chapter 147A; and (5) an unlicensed mental health practitioner regulated pursuant to sections 148B.60 to 148B.71.

(c) "Individually identifiable form" means a form in which the patient is or can be identified as the subject of the health records.

Sec. 2. [145B.011] [APPLICATION OF CHAPTER.]

This chapter applies only to living wills executed before August 1, 1998. If a document purporting to be a living will is executed on or after August 1, 1998, its legal sufficiency, interpretation, and enforcement must be determined under the provisions of chapter 145C in effect on the date of its execution.

Sec. 3. Minnesota Statutes 1996, section 145C.01, is amended by adding a subdivision to read:

Subd. 1a. [ACT IN GOOD FAITH.] "Act in good faith" means to act consistently with a legally sufficient health care directive of the principal, a living will executed under chapter 145B, a declaration regarding intrusive mental health treatment executed under section 253B.03, subdivision 6d, or information otherwise made known by the principal, unless the actor has actual knowledge of the modification or revocation of the information expressed. If these sources of information do not provide adequate guidance to the actor, "act in good faith" means acting in the best interests of the principal, considering the principal's overall general health condition and prognosis and the principal's personal values to the extent known. Notwithstanding any instruction of the principal, a health care agent, health care provider, or any other person is not acting in good faith if the person violates the provisions of section 609.215 prohibiting assisted suicide.

Sec. 4. Minnesota Statutes 1996, section 145C.01, is amended by adding a subdivision to read:

Subd. 1b. [DECISION-MAKING CAPACITY.] "Decision-making capacity" means the ability to understand the significant benefits, risks, and alternatives to proposed health care and to make and communicate a health care decision.

Sec. 5. Minnesota Statutes 1996, section 145C.01, subdivision 2, is amended to read:

Subd. 2. [HEALTH CARE AGENT.] "Health care agent" means an individual age 18 or older who is designated appointed by a principal in a durable health care power of attorney for health care to make health care decisions on behalf of a the principal and has consented to act in that capacity. An agent "Health care agent" may also be referred to as "attorney in fact agent."

Sec. 6. Minnesota Statutes 1996, section 145C.01, subdivision 3, is amended to read:

Subd. 3. [DURABLE HEALTH CARE POWER OF ATTORNEY FOR HEALTH CARE.] "Durable Health care power of attorney for health care" means an instrument authorizing an agent

~~appointing one or more health care agents to make health care decisions for the principal if the principal is unable, in the judgment of the attending physician, to make or communicate health care decisions.~~

Sec. 7. Minnesota Statutes 1996, section 145C.01, subdivision 4, is amended to read:

~~Subd. 4. [HEALTH CARE.] "Health care" means any care, treatment, service, or procedure to maintain, diagnose, or treat otherwise affect a person's physical or mental condition. "Health care" includes the provision of nutrition or hydration parenterally or through intubation but does not include any treatment, service, or procedure that violates the provisions of section 609.215 prohibiting assisted suicide. "Health care" does not include intrusive mental health treatment as defined in section 253B.03, subdivision 6b, unless the durable power of attorney for health care specifically applies to decisions relating to intrusive mental health treatment also includes the establishment of a person's abode within or without the state and personal security safeguards for a person, to the extent decisions on these matters relate to the health care needs of the person.~~

Sec. 8. Minnesota Statutes 1996, section 145C.01, is amended by adding a subdivision to read:

~~Subd. 5a. [HEALTH CARE DIRECTIVE.] "Health care directive" means a written instrument that complies with section 145C.03 and includes one or more health care instructions, a health care power of attorney, or both; or a durable power of attorney for health care executed under this chapter before August 1, 1998.~~

Sec. 9. Minnesota Statutes 1996, section 145C.01, is amended by adding a subdivision to read:

~~Subd. 7a. [HEALTH CARE INSTRUCTION.] "Health care instruction" means a written statement of the principal's values, preferences, guidelines, or directions regarding health care.~~

Sec. 10. Minnesota Statutes 1996, section 145C.01, subdivision 8, is amended to read:

~~Subd. 8. [PRINCIPAL.] "Principal" means an individual age 18 or older who has executed a durable power of attorney for health care directive.~~

Sec. 11. Minnesota Statutes 1996, section 145C.01, is amended by adding a subdivision to read:

~~Subd. 9. [REASONABLY AVAILABLE.] "Reasonably available" means readily able to be contacted without undue effort and willing and able to act in a timely manner considering the urgency of the principal's health care needs.~~

Sec. 12. Minnesota Statutes 1996, section 145C.02, is amended to read:

~~145C.02 [DURABLE POWER OF ATTORNEY FOR HEALTH CARE DIRECTIVE.]~~

~~A durable power of attorney for health care under this chapter authorizes the agent to make health care decisions for the principal when the principal is unable, in the judgment of the principal's attending physician, to make or communicate health care decisions. The durable power of attorney for health care must substantially comply with the requirements of this chapter. An instrument executed prior to August 1, 1993, purporting to create a durable power of attorney for health care is valid if the document specifically authorizes the agent to make health care decisions and is executed in compliance with section 145C.03. A principal with the capacity to do so may execute a health care directive. A health care directive may include one or more health care instructions to direct health care providers, others assisting with health care, family members, and a health care agent. A health care directive may include a health care power of attorney to appoint a health care agent to make health care decisions for the principal when the principal, in the judgment of the principal's attending physician, lacks decision-making capacity, unless otherwise specified in the health care directive.~~

Sec. 13. Minnesota Statutes 1996, section 145C.03, is amended to read:

~~145C.03 [REQUIREMENTS.]~~

~~Subdivision 1. [EXECUTION LEGAL SUFFICIENCY.] A durable power of attorney for~~

~~health care must be signed by the principal or in the principal's name by some other individual acting in the principal's presence and by the principal's direction. A durable power of attorney for health care must contain the date of its execution and must be witnessed or acknowledged by one of the following methods:~~

~~(1) signed by at least two individuals age 18 or older each of whom witnessed either the signing of the instrument by the principal or the principal's acknowledgment of the signature; or~~

~~(2) acknowledged by the principal before a notary public who is not the agent. To be legally sufficient in this state, a health care directive must:~~

~~(1) be in writing;~~

~~(2) be dated;~~

~~(3) state the principal's name;~~

~~(4) be executed by a principal with capacity to do so with the signature of the principal or with the signature of another person authorized by the principal to sign on behalf of the principal;~~

~~(5) contain verification of the principal's signature or the signature of the person authorized by the principal to sign on behalf of the principal, either by a notary public or by witnesses as provided under this chapter; and~~

~~(6) include a health care instruction, a health care power of attorney, or both.~~

~~Subd. 2. [INDIVIDUALS INELIGIBLE TO ACT AS HEALTH CARE AGENT.] (a) An individual appointed by the principal under section 145C.05, subdivision 2, paragraph (b), to make the determination of the principal's decision-making capacity is not eligible to act as the health care agent.~~

~~(b) The following individuals are not eligible to act as the health care agent in a durable power of attorney for health care, unless the individual designated appointed is related to the principal by blood, marriage, registered domestic partnership, or adoption, or unless the principal has otherwise specified in the health care directive:~~

~~(1) a health care provider attending the principal on the date of execution of the health care directive or on the date the health care agent must make decisions for the principal; or~~

~~(2) an employee of a health care provider attending the principal on the date of execution of the health care directive or on the date the health care agent must make decisions for the principal.~~

~~Subd. 3. [INDIVIDUALS INELIGIBLE TO ACT AS WITNESSES OR NOTARY PUBLIC.] The (a) A health care agent designated or alternate health care agent appointed in the durable power of attorney for a health care power of attorney may not act as a witness or notary public for the execution of the durable power of attorney for health care directive that includes the health care power of attorney.~~

~~(b) At least one witness to the execution of the durable power of attorney for health care directive must not be a health care provider providing direct care to the principal or an employee of a health care provider providing direct care to the principal on the date of execution. A person notarizing a health care directive may be an employee of a health care provider providing direct care to the principal.~~

Sec. 14. Minnesota Statutes 1996, section 145C.04, is amended to read:

145C.04 [EXECUTED IN ANOTHER STATE.]

A durable power of attorney for health care or similar document executed in another state or jurisdiction in compliance with the law of that state or jurisdiction is valid and enforceable in this state, to the extent the document is consistent with the laws of this state, health care directive or similar document executed in another state or jurisdiction is legally sufficient under this chapter if it:

(1) complies with the law of the state or jurisdiction in which it was executed; or

(2) complies with section 145C.03.

This section does not authorize a health care directive or similar document to supersede the provisions of section 609.215 prohibiting assisted suicide.

Sec. 15. Minnesota Statutes 1996, section 145C.05, subdivision 1, is amended to read:

Subdivision 1. [CONTENT.] A  ~~durable power of attorney for health care directive~~ executed pursuant to this chapter may, but need not, be in the following form:

~~"I appoint ..... as my agent (my attorney in fact) to make any health care decision for me when, in the judgment of my attending physician, I am unable to make or communicate the decision myself and my agent consents to make or communicate the decision on my behalf.~~

~~My agent has the power to make any health care decision for me. This power includes the power to give consent, to refuse consent, or to withdraw consent to any care, treatment, service, or procedure to maintain, diagnose, or treat my physical or mental condition, including giving me food or water by artificial means. My agent has the power, where consistent with the laws of this state, to make a health care decision to withhold or stop health care necessary to keep me alive. It is my intention that my agent or any alternative agent has a personal obligation to me to make health care decisions for me consistent with my expressed wishes. I understand, however, that my agent or any alternative agent has no legal duty to act.~~

~~My agent and any alternative agents have consented to act as my agent. My agent and any alternative agents have been notified that they will be nominated as a guardian or conservator for me.~~

~~My agent must act consistently with my desires as stated in this document or as otherwise made known by me to my agent.~~

~~My agent has the same right as I would have to receive, review, and obtain copies of my medical records and to consent to disclosure of those records." contained in section 145C.16.~~

Sec. 16. Minnesota Statutes 1996, section 145C.05, subdivision 2, is amended to read:

Subd. 2. [ADDITIONAL PROVISIONS THAT MAY BE INCLUDED.] ~~The durable power of attorney for~~ (a) A health care directive may include additional provisions consistent with this chapter, including, but not limited to:

(1) the designation of one or more alternative alternate health care agents to act if the named health care agent is unable, unavailable, or unwilling not reasonably available to serve;

(2) specific instructions to the agent or any alternative agents directions to joint health care agents regarding the process or standards by which the health care agents are to reach a health care decision for the principal, and a statement whether joint health care agents may act independently of one another;

(3) limitations, if any, on the right of the health care agent or any alternative alternate health care agents to receive, review, obtain copies of, and consent to the disclosure of the principal's medical records;

(4) limitations, if any, on the nomination of the health care agent as guardian or conservator of the person for purposes of section 525.544; and

(5) a document of gift for the purpose of making an anatomical gift, as set forth in sections 525.921 to 525.924, or an amendment to, revocation of, or refusal to make an anatomical gift;

(6) a declaration regarding intrusive mental health treatment under section 253B.03, subdivision 6d, or a statement that the health care agent is authorized to give consent for the principal under section 253B.04, subdivision 1a;

(7) a funeral directive as provided in section 149A.80, subdivision 2;

(8) limitations, if any, to the effect of dissolution or annulment of marriage or termination of domestic partnership on the appointment of a health care agent under section 145C.09, subdivision 2;

(9) specific reasons why a principal wants a health care provider or an employee of a health care provider attending the principal to be eligible to act as the principal's health care agent;

(10) health care instructions by a woman of child bearing age regarding how she would like her pregnancy, if any, to affect health care decisions made on her behalf; and

(11) health care instructions regarding artificially administered nutrition or hydration.

(b) A health care directive may include a statement of the circumstances under which the directive becomes effective other than upon the judgment of the principal's attending physician in the following situations:

(1) a principal who in good faith generally selects and depends upon spiritual means or prayer for the treatment or care of disease or remedial care and does not have an attending physician, may include a statement appointing an individual who may determine the principal's decision-making capacity; and

(2) a principal who in good faith does not generally select a physician or a health care facility for the principal's health care needs may include a statement appointing an individual who may determine the principal's decision-making capacity, provided that if the need to determine the principal's capacity arises when the principal is receiving care under the direction of an attending physician in a health care facility, the determination must be made by an attending physician after consultation with the appointed individual.

If a person appointed under clause (1) or (2) is not reasonably available and the principal is receiving care under the direction of an attending physician in a health care facility, an attending physician shall determine the principal's decision-making capacity.

(c) A health care directive may authorize a health care agent to make health care decisions for a principal even though the principal retains decision-making capacity.

Sec. 17. Minnesota Statutes 1996, section 145C.06, is amended to read:

145C.06 [WHEN EFFECTIVE.]

~~(a) Except as provided in paragraph (b), a durable power of attorney for A health care directive is effective for a health care decision when:~~

~~(1) it has been executed in accordance with~~ meets the requirements of section 145C.03, subdivision 1; and

~~(2) the principal is unable, in the determination of the attending physician of the principal, to make or communicate that health care decision and the agent consents to make or communicate the decision~~ lacks decision-making capacity to make the health care decision; or if other conditions for effectiveness otherwise specified by the principal have been met.

A health care directive is not effective for a health care decision when the principal, in the determination of the attending physician of the principal, recovers decision-making capacity; or if other conditions for effectiveness otherwise specified by the principal have been met.

~~(b) If the principal states in the durable power of attorney that the principal does not have an attending physician because the principal in good faith generally selects and depends upon spiritual means or prayer for the treatment or care of disease or remedial care, the principal may designate an individual in the durable power of attorney for health care who may certify in a writing acknowledged before a notary public that the principal is unable to make or communicate a health care decision. The requirements of section 145C.03, subdivisions 2 and 3, relating to the~~

eligibility of a health care provider attending the principal or the provider's employee to act as an agent or witness apply to an individual designated under this paragraph.

Sec. 18. Minnesota Statutes 1996, section 145C.07, is amended to read:

145C.07 [AUTHORITY AND DUTIES OF HEALTH CARE AGENT.]

Subdivision 1. [AUTHORITY.] The health care agent has authority to make any particular health care decision only if the principal ~~is unable~~ lacks decision-making capacity, in the determination of the attending physician, to make or communicate that health care decision; or if other conditions for effectiveness otherwise specified by the principal have been met. ~~The agent does not have authority to consent to a voluntary commitment under chapter 253B.~~ The physician or other health care provider shall continue to obtain the principal's informed consent to all health care decisions for which the principal ~~is capable of informed consent~~ has decision-making capacity, unless other conditions for effectiveness otherwise specified by the principal have been met. An alternate health care agent has authority to act if the primary health care agent is not reasonably available to act.

Subd. 2. [HEALTH CARE AGENT AS GUARDIAN.] ~~Except as otherwise provided in the durable power of attorney for health care~~ Unless the principal has otherwise specified in the health care directive, the appointment of the health care agent in a durable power of attorney for health care directive is considered a nomination of a guardian or conservator of the person for purposes of section 525.544.

Subd. 3. [DUTIES.] In exercising the authority under ~~the durable power of attorney for a health care directive, the~~ a health care agent has a duty to act in accordance ~~with the desires of the principal as expressed in the durable power of attorney for health care, as expressed in a living will under chapter 145B or in a declaration regarding intrusive mental health treatment under section 253B.03, subdivision 6d, or as otherwise made known by the principal to the agent at any time. If the principal's desires are not known or cannot be determined from information known to the agent, the agent has a duty to act in the best interests of the principal taking into account the principal's overall medical condition and prognosis~~ good faith. ~~An~~ A health care agent or any alternative alternate health care agent has a personal obligation to the principal to make health care decisions authorized by the durable health care power of attorney for health care, but this obligation does not constitute a legal duty to act.

Subd. 4. [INCONSISTENCIES AMONG DOCUMENTS.] In the event of inconsistency between the designation appointment of a proxy under chapter 145B or section 253B.03, subdivision 6d, or of ~~an~~ a health care agent under this chapter, the most recent designation appointment takes precedence. In the event of other inconsistencies among documents executed under this chapter, under chapter 145B, or under section 253B.03, subdivision 6d, or 525.544, or other legally sufficient documents, the provisions of the most recently executed document take precedence only to the extent of the inconsistency.

Sec. 19. Minnesota Statutes 1996, section 145C.08, is amended to read:

145C.08 [AUTHORITY TO REVIEW MEDICAL RECORDS.]

~~An~~ A health care agent acting pursuant to a durable power of attorney for health care directive has the same right as the principal to receive, review, and obtain copies of medical records of the principal, and to consent to the disclosure of medical records of the principal, unless the durable power of attorney for health care expressly provides otherwise principal has otherwise specified in the health care directive.

Sec. 20. Minnesota Statutes 1996, section 145C.09, is amended to read:

145C.09 [REVOCATION OF DURABLE POWER OF ATTORNEY HEALTH CARE DIRECTIVE.]

Subdivision 1. [REVOCATION.] The A principal with the capacity to do so may revoke a durable power of attorney for health care directive in whole or in part at any time by doing any of the following:

(1) canceling, defacing, obliterating, burning, tearing, or otherwise destroying the  ~~durable power of attorney for health care directive instrument~~ or directing another in the presence of the principal to destroy the  durable power of attorney for health care directive instrument, with the intent to revoke the health care directive in whole or in part;

(2) executing a statement, in writing and dated, expressing the principal's intent to revoke the  ~~durable power of attorney for health care directive in whole or in part;~~

(3) verbally expressing the principal's intent to revoke the  ~~durable power of attorney for health care directive in whole or in part~~ in the presence of two witnesses who do not have to be present at the same time; or

(4) executing a subsequent  ~~durable power of attorney for health care instrument~~  directive, to the extent the subsequent instrument is inconsistent with any prior instrument.

Subd. 2. [EFFECT OF DISSOLUTION OR ANNULMENT OF MARRIAGE OR TERMINATION OF DOMESTIC PARTNERSHIP ON APPOINTMENT OF  HEALTH CARE AGENT.] Unless the  ~~durable power of attorney for health care expressly provides otherwise~~ principal has otherwise specified in the health care directive, the appointment by the principal of the principal's spouse or registered domestic partner as health care agent under a  durable health care power of attorney for health care is revoked by the commencement of proceedings for dissolution, annulment, or termination of the principal's marriage or commencement of proceedings for termination of the principal's registered domestic partnership.

Sec. 21. Minnesota Statutes 1996, section 145C.10, is amended to read:

145C.10 [PRESUMPTIONS.]

(a) The principal is presumed to have the capacity to  ~~appoint an agent to make~~ execute a health care  decisions directive and to revoke a  ~~durable power of attorney for health care directive, absent clear and convincing evidence to the contrary.~~

(b) A health care provider or  health care agent may presume that a  ~~durable power of attorney for health care directive is valid~~  legally sufficient absent actual knowledge to the contrary.  A health care directive is presumed to be properly executed, absent clear and convincing evidence to the contrary.

~~It is presumed that an~~ (c) A health care agent, and a health care provider acting pursuant to the direction of  ~~an~~ a health care agent, are presumed to be acting in good faith  ~~and in the best interests of the principal,~~ absent clear and convincing evidence to the contrary.

(d)  A health care directive is presumed to remain in effect until the principal modifies or revokes it, absent clear and convincing evidence to the contrary.

(e) This chapter does not create a presumption concerning the intention of an individual who has not executed a  ~~durable power of attorney for health care directive~~ and does not impair or supersede any right or responsibility of an individual to consent, refuse to consent, or withdraw consent to health care on behalf of another in the absence of a  ~~durable power of attorney for health care directive.~~

(f)  A copy of a health care directive is presumed to be a true and accurate copy of the executed original, absent clear and convincing evidence to the contrary, and must be given the same effect as an original.

For purposes of this chapter,  ~~acting in good faith means acting consistently with the desires of the principal as expressed in the durable power of attorney for health care, as expressed in a living will under chapter 145B or in a declaration regarding intrusive mental health treatment under section 253B.03, subdivision 6d, or otherwise made known by the principal to the agent. If the principal's desires are not known or cannot be determined from information known to the agent, acting in good faith means acting in the best interests of the principal, taking into account the principal's overall medical condition and prognosis.~~



Sec. 22. Minnesota Statutes 1996, section 145C.11, is amended to read:

145C.11 [IMMUNITIES.]

Subdivision 1. [HEALTH CARE AGENT.] ~~An~~ A health care agent is not subject to criminal prosecution or civil liability for any health care decision made in good faith pursuant to a durable power of attorney for health care, unless the agent has actual knowledge of the revocation of the durable power of attorney for health care if the health care agent acts in good faith.

Subd. 2. [HEALTH CARE PROVIDER.] (a) A health care provider is not subject to criminal prosecution, civil liability, or professional disciplinary action if the health care provider acts in good faith.

(b) A health care provider is not subject to criminal prosecution, civil liability, or professional disciplinary action if the health care provider relies on a health care decision made by the health care agent and the following requirements are satisfied:

(1) the health care provider believes in good faith that the decision was made by an a health care agent authorized appointed to make the decision and has no actual knowledge that the durable power of attorney for health care directive has been revoked; and

(2) the health care provider believes in good faith that the decision is consistent with the desires of the principal as expressed in the durable power of attorney for health care or otherwise made known by the principal to the health care agent is acting in good faith.

(b) (c) A health care provider who administers health care necessary to keep the principal alive, despite a health care decision of the health care agent to withhold or withdraw that treatment, is not subject to criminal prosecution, civil liability, or professional disciplinary action if that health care provider promptly took all reasonable steps to:

(1) notify the health care agent of the health care provider's unwillingness to comply;

(2) document the notification in the principal's medical record; and

(3) permit the health care agent to arrange to transfer care of the principal to another health care provider willing to comply with the decision of the health care agent.

Sec. 23. Minnesota Statutes 1996, section 145C.12, is amended to read:

145C.12 [PROHIBITED PRACTICES.]

Subdivision 1. [HEALTH CARE PROVIDER.] A health care provider, health care service plan, insurer, self-insured employee welfare benefit plan, or nonprofit hospital plan may not condition admission to a facility, or the providing of treatment or insurance, on the requirement that an individual execute a durable power of attorney for health care directive.

Subd. 2. [INSURANCE.] A policy of life insurance is not legally impaired or invalidated in any manner by the withholding or withdrawing of health care pursuant to the direction of ~~an~~ a health care agent appointed pursuant to this chapter, or pursuant to the implementation of health care instructions under this chapter.

Sec. 24. [145C.16] [SUGGESTED FORM.]

The following is a suggested form of a health care directive and is not a required form.

HEALTH CARE DIRECTIVE

I, ....., understand this document allows me to do ONE OR BOTH of the following:

PART I: Name another person (called the health care agent) to make health care decisions for me if I am unable to decide or speak for myself. My health care agent must make health care decisions for me based on the instructions I provide in this document (Part II), if any, the wishes I

have made known to him or her, or must act in my best interest if I have not made my health care wishes known.

AND/OR

PART II: Give health care instructions to guide others making health care decisions for me. If I have named a health care agent, these instructions are to be used by the agent. These instructions may also be used by my health care providers, others assisting with my health care and my family, in the event I cannot make decisions for myself.

PART I: APPOINTMENT OF HEALTH CARE AGENT

THIS IS WHO I WANT TO MAKE HEALTH CARE DECISIONS

FOR ME IF I AM UNABLE TO DECIDE OR SPEAK FOR MYSELF

(I know I can change my agent or alternate agent at any time and I know I do not have to appoint an agent or an alternate agent)

NOTE: If you appoint an agent, you should discuss this health care directive with your agent and give your agent a copy. If you do not wish to appoint an agent, you may leave Part I blank and go to Part II.

When I am unable to decide or speak for myself, I trust and appoint ..... to make health care decisions for me. This person is called my health care agent.

Relationship of my health care agent to me:.....

Telephone number of my health care agent: .....

Address of my health care agent: .....

(OPTIONAL) APPOINTMENT OF ALTERNATE HEALTH CARE AGENT: If my health care agent is not reasonably available, I trust and appoint ..... to be my health care agent instead.

Relationship of my alternate health care agent to me: .....

Telephone number of my alternate health care agent: .....

Address of my alternate health care agent: .....

THIS IS WHAT I WANT MY HEALTH CARE AGENT TO BE ABLE TO

DO IF I AM UNABLE TO DECIDE OR SPEAK FOR MYSELF

(I know I can change these choices)

My health care agent is automatically given the powers listed below in (A) through (D). My health care agent must follow my health care instructions in this document or any other instructions I have given to my agent. If I have not given health care instructions, then my agent must act in my best interest.

Whenever I am unable to decide or speak for myself, my health care agent has the power to:

(A) Make any health care decision for me. This includes the power to give, refuse, or withdraw consent to any care, treatment, service, or procedures. This includes deciding whether to stop or not start health care that is keeping me or might keep me alive, and deciding about intrusive mental health treatment.

(B) Choose my health care providers.

(C) Choose where I live and receive care and support when those choices relate to my health care needs.

(D) Review my medical records and have the same rights that I would have to give my medical records to other people.

If I DO NOT want my health care agent to have a power listed above in (A) through (D) OR if I want to LIMIT any power in (A) through (D), I MUST say that here:

.....  
.....  
.....

My health care agent is NOT automatically given the powers listed below in (1) and (2). If I WANT my agent to have any of the powers in (1) and (2), I must INITIAL the line in front of the power; then my agent WILL HAVE that power.

- ... (1) To decide whether to donate my organs when I die.
- ... (2) To decide what will happen with my body when I die  
(burial, cremation).

If I want to say anything more about my health care agent's powers or limits on the powers, I can say it here:

.....  
.....  
.....

PART II: HEALTH CARE INSTRUCTIONS

NOTE: Complete this Part II if you wish to give health care instructions. If you appointed an agent in Part I, completing this Part II is optional but would be very helpful to your agent. However, if you chose not to appoint an agent in Part I, you MUST complete some or all of this Part II if you wish to make a valid health care directive.

These are instructions for my health care when I am unable to decide or speak for myself. These instructions must be followed (so long as they address my needs).

THESE ARE MY BELIEFS AND VALUES ABOUT MY HEALTH CARE

(I know I can change these choices or leave any of them blank)

I want you to know these things about me to help you make decisions about my health care:

My goals for my health care: .....

My fears about my health care: .....

My spiritual or religious beliefs and traditions: .....

My beliefs about when life would be no longer worth living: .....

.....

My thoughts about how my medical condition might affect my family:

.....

THIS IS WHAT I WANT AND DO NOT WANT FOR MY HEALTH CARE

(I know I can change these choices or leave any of them blank)

Many medical treatments may be used to try to improve my medical condition or to prolong my life. Examples include artificial breathing by a machine connected to a tube in the lungs, artificial feeding or fluids through tubes, attempts to start a stopped heart, surgeries, dialysis, antibiotics, and blood transfusions. Most medical treatments can be tried for a while and then stopped if they do not help.

I have these views about my health care in these situations:

(Note: You can discuss general feelings, specific treatments, or leave any of them blank)

If I had a reasonable chance of recovery, and were temporarily unable to decide or speak for myself, I would want: .....

If I were dying and unable to decide or speak for myself, I would want: .....

If I were permanently unconscious and unable to decide or speak for myself, I would want: .....

If I were completely dependent on others for my care and unable to decide or speak for myself, I would want: .....

In all circumstances, my doctors will try to keep me comfortable and reduce my pain. This is how I feel about pain relief if it would affect my alertness or if it could shorten my life: .....

There are other things that I want or do not want for my health care, if possible:

Who I would like to be my doctor: .....

Where I would like to live to receive health care: .....

Where I would like to die and other wishes I have about dying: .....

My wishes about donating parts of my body when I die: .....

My wishes about what happens to my body when I die (cremation, burial): .....

Any other things: .....

**PART III: MAKING THE DOCUMENT LEGAL**

This document must be signed by me. It also must either be verified by a notary public (Option 1) OR witnessed by two witnesses (Option 2). It must be dated when it is verified or witnessed.

I am thinking clearly, I agree with everything that is written in this document, and I have made this document willingly.

.....

My Signature

Date signed: .....

Date of birth:.....

Address: .....

.....

If I cannot sign my name, I can ask someone to sign this document for me.

.....

Signature of the person who I asked to sign this document for me.

.....

Printed name of the person who I asked to sign this document for me.

Option 1: Notary Public

In my presence on ..... (date), ..... (name) acknowledged his/her signature on this document or acknowledged that he/she authorized the person signing this document to sign on his/her behalf. I am not named as a health care agent or alternate health care agent in this document.

.....

(Signature of Notary)

(Notary Stamp)

Option 2: Two Witnesses

Two witnesses must sign. Only one of the two witnesses can be a health care provider or an employee of a health care provider giving direct care to me on the day I sign this document.

Witness One:

(i) In my presence on ..... (date), ..... (name) acknowledged his/her signature on this document or acknowledged that he/she authorized the person signing this document to sign on his/her behalf.

(ii) I am at least 18 years of age.

(iii) I am not named as a health care agent or an alternate health care agent in this document.

(iv) If I am a health care provider or an employee of a health care provider giving direct care to the person listed above in (A), I must initial this box: [ ]

I certify that the information in (i) through (iv) is true and correct.

.....

(Signature of Witness One)

Address:.....

.....

Witness Two:

(i) In my presence on ..... (date), ..... (name) acknowledged his/her signature on this document or acknowledged that he/she authorized the person signing this document to sign on his/her behalf.

(ii) I am at least 18 years of age.

(iii) I am not named as a health care agent or an alternate health care agent in this document.

(iv) If I am a health care provider or an employee of a health care provider giving direct care to the person listed above in (A), I must initial this box: [ ]

I certify that the information in (i) through (iv) is true and correct.

.....

(Signature of Witness Two)

Address:.....

.....

REMINDER: Keep this document with your personal papers in a safe place (not in a safe deposit box). Give signed copies to your doctors, family, close friends, health care agent, and alternate health care agent. Make sure your doctor is willing to follow your wishes. This document should be part of your medical record at your physician's office and at the hospital, home care agency, hospice, or nursing facility where you receive your care.

Sec. 25. Minnesota Statutes 1996, section 145C.13, subdivision 1, is amended to read:

Subdivision 1. [GROSS MISDEMEANOR OFFENSES.] Whoever commits any of the following acts is guilty of a gross misdemeanor:

(1) willfully conceals, cancels, defaces, or obliterates a ~~durable power of attorney for health care~~ directive of a principal without the consent of the principal;

(2) willfully conceals or withholds personal knowledge of a revocation of a ~~durable power of attorney for health care~~ directive;

(3) falsifies or forges a ~~durable power of attorney for health care~~ directive or a revocation of the instrument;

(4) coerces or fraudulently induces another to execute a ~~durable power of attorney for health care~~ directive; or

(5) requires or prohibits the execution of a ~~durable power of attorney for health care~~ directive as a condition for being insured for or receiving all or some health care services.

Sec. 26. Minnesota Statutes 1996, section 145C.15, is amended to read:

145C.15 [DUTIES OF HEALTH CARE PROVIDERS TO PROVIDE LIFE-SUSTAINING HEALTH CARE.]

(a) If a proxy acting under chapter 145B or ~~an~~ a health care agent acting under this chapter directs the provision of health care, nutrition, or hydration that, in reasonable medical judgment, has a significant possibility of sustaining the life of the principal or declarant, a health care provider shall take all reasonable steps to ensure the provision of the directed health care, nutrition, or hydration if the provider has the legal and actual capability of providing the health care either itself or by transferring the principal or declarant to a health care provider who has that capability. Any transfer of a principal or declarant under this paragraph must be done promptly and, if necessary to preserve the life of the principal or declarant, by emergency means. This paragraph does not apply if a living will under chapter 145B or a ~~durable power of attorney for health care~~ directive indicates an intention to the contrary.

(b) A health care provider who is unwilling to provide directed health care under paragraph (a) that the provider has the legal and actual capability of providing may transfer the principal or declarant to another health care provider willing to provide the directed health care but the provider shall take all reasonable steps to ensure provision of the directed health care until the principal or declarant is transferred.

(c) Nothing in this section alters any legal obligation or lack of legal obligation of a health care provider to provide health care to a principal or declarant who refuses, has refused, or is unable to pay for the health care.

Sec. 27. Minnesota Statutes 1997 Supplement, section 149A.80, subdivision 2, is amended to read:

Subd. 2. [DETERMINATION OF RIGHT TO CONTROL AND DUTY OF DISPOSITION.] The right to control the disposition of the remains of a deceased person, including the location and conditions of final disposition, unless other directions have been given by the decedent pursuant to subdivision 1, vests in, and the duty of final disposition of the body devolves upon, the following in the order named:

(1) the person ~~designated~~ appointed in a dated written instrument signed by the decedent. Written instrument includes, but is not limited to, a health care directive executed under chapter 145C. Written instrument does not include a durable or nondurable power of attorney which terminates on the death of the principal pursuant to sections 523.08 and 523.09;

(2) the surviving, legally recognized spouse;

(3) the surviving biological or adopted child or children of the decedent over the age of majority, provided that, in the absence of actual knowledge to the contrary, a funeral director or mortician may rely on instructions given by the child or children who represent that they are the sole surviving child, or that they constitute a majority of the surviving children;

(4) the surviving parent or parents of the decedent;

(5) the surviving biological or adopted sibling or siblings of the decedent over the age of

majority, provided that, in the absence of actual knowledge to the contrary, a funeral director or mortician may rely on instructions given by the sibling or siblings who represent that they are the sole surviving sibling, or that they constitute a majority of the surviving siblings;

(6) the person or persons respectively in the next degree of kinship in the order named by law to inherit the estate of the decedent; and

(7) the appropriate public or court authority, as required by law.

For purposes of this subdivision, the appropriate public or court authority includes the county board of the county in which the death occurred if the person dies without apparent financial means to provide for final disposition or the district court in the county in which the death occurred.

Sec. 28. Minnesota Statutes 1997 Supplement, section 253B.04, subdivision 1a, is amended to read:

Subd. 1a. [VOLUNTARY TREATMENT OR ADMISSION FOR PERSONS WITH MENTAL ILLNESS.] (a) A person with a mental illness may seek or voluntarily agree to accept treatment or admission to a facility. If the mental health provider determines that the person lacks the capacity to give informed consent for the treatment or admission, and in the absence of a ~~durable power of attorney for health care~~ power of attorney that authorizes consent, the designated agency or its designee may give informed consent for mental health treatment or admission to a treatment facility on behalf of the person.

(b) The designated agency shall apply the following criteria in determining the person's ability to give informed consent:

(1) whether the person demonstrates an awareness of the person's illness, and the reasons for treatment, its risks, benefits and alternatives, and the possible consequences of refusing treatment; and

(2) whether the person communicates verbally or nonverbally a clear choice concerning treatment that is a reasoned one, not based on delusion, even though it may not be in the person's best interests.

(c) The basis for the designated agency's decision that the person lacks the capacity to give informed consent for treatment or admission, and that the patient has voluntarily accepted treatment or admission, must be documented in writing.

(d) A mental health provider that provides treatment in reliance on the written consent given by the designated agency under this subdivision is not civilly or criminally liable for performing treatment without consent. This paragraph does not affect any other liability that may result from the manner in which the treatment is performed.

(e) A person who receives treatment or is admitted to a facility under this subdivision has the right to refuse treatment at any time or to be released from a facility as provided under subdivision 2. The person or any interested person acting on the person's behalf may seek court review within five days for a determination of whether the person's agreement to accept treatment or admission is voluntary. At the time a person agrees to treatment or admission to a facility under this subdivision, the designated agency or its designee shall inform the person in writing of the person's rights under this paragraph.

(f) This subdivision does not authorize the administration of neuroleptic medications. Neuroleptic medications may be administered only as provided in section 253B.092.

Sec. 29. Minnesota Statutes 1997 Supplement, section 253B.07, subdivision 1, is amended to read:

Subdivision 1. [PREPETITION SCREENING.] (a) Prior to filing a petition for commitment of or early intervention for a proposed patient, an interested person shall apply to the designated agency in the county of the proposed patient's residence or presence for conduct of a preliminary

investigation, except when the proposed patient has been acquitted of a crime under section 611.026 and the county attorney is required to file a petition for commitment. The designated agency shall appoint a screening team to conduct an investigation which shall include:

(i) a personal interview with the proposed patient and other individuals who appear to have knowledge of the condition of the proposed patient. If the proposed patient is not interviewed, reasons must be documented;

(ii) identification and investigation of specific alleged conduct which is the basis for application;

(iii) identification, exploration, and listing of the reasons for rejecting or recommending alternatives to involuntary placement; and

(iv) in the case of a commitment based on mental illness, the following information, if it is known or available: information that may be relevant to the administration of neuroleptic medications, if necessary, including the existence of a declaration under section 253B.03, subdivision 6d, or a ~~durable power of attorney for health care~~ directive under chapter 145C or a guardian, conservator, proxy, or ~~attorney-in-fact~~ agent with authority to make health care decisions for the proposed patient; information regarding the capacity of the proposed patient to make decisions regarding administration of neuroleptic medication; and whether the proposed patient is likely to consent or refuse consent to administration of the medication.

(b) In conducting the investigation required by this subdivision, the screening team shall have access to all relevant medical records of proposed patients currently in treatment facilities. Data collected pursuant to this clause shall be considered private data on individuals. The prepetition screening report is not admissible in any court proceedings unrelated to the commitment proceedings.

(c) When the prepetition screening team recommends commitment, a written report shall be sent to the county attorney for the county in which the petition is to be filed.

(d) The prepetition screening team shall refuse to support a petition if the investigation does not disclose evidence sufficient to support commitment. Notice of the prepetition screening team's decision shall be provided to the prospective petitioner.

(e) If the interested person wishes to proceed with a petition contrary to the recommendation of the prepetition screening team, application may be made directly to the county attorney, who may determine whether or not to proceed with the petition. Notice of the county attorney's determination shall be provided to the interested party.

(f) If the proposed patient has been acquitted of a crime under section 611.026, the county attorney shall apply to the designated county agency in the county in which the acquittal took place for a preliminary investigation unless substantially the same information relevant to the proposed patient's current mental condition, as could be obtained by a preliminary investigation, is part of the court record in the criminal proceeding or is contained in the report of a mental examination conducted in connection with the criminal proceeding. If a court petitions for commitment pursuant to the rules of criminal or juvenile procedure or a county attorney petitions pursuant to acquittal of a criminal charge under section 611.026, the prepetition investigation, if required by this section, shall be completed within seven days after the filing of the petition.

Sec. 30. Minnesota Statutes 1997 Supplement, section 253B.092, subdivision 2, is amended to read:

Subd. 2. [ADMINISTRATION WITHOUT JUDICIAL REVIEW.] Neuroleptic medications may be administered without judicial review in the following circumstances:

(1) the patient has the capacity to make an informed decision under subdivision 4;

(2) the patient does not have the present capacity to consent to the administration of neuroleptic medication, but prepared a ~~durable power of attorney for health care~~ directive under chapter 145C or a declaration under section 253B.03, subdivision 6d, requesting treatment or authorizing an agent or proxy to request treatment, and the agent or proxy has requested the treatment;



(3) a substitute decision-maker appointed by the court consents to the administration of the neuroleptic medication and the patient does not refuse administration of the medication; or

(4) the substitute decision-maker does not consent or the patient is refusing medication, and the patient is in an emergency situation.

Sec. 31. Minnesota Statutes 1997 Supplement, section 253B.092, subdivision 6, is amended to read:

Subd. 6. [PATIENTS WITHOUT CAPACITY TO MAKE INFORMED DECISION; SUBSTITUTE DECISION-MAKER.] (a) Upon request of any person, and upon a showing that administration of neuroleptic medications may be recommended and that the person may lack capacity to make decisions regarding the administration of neuroleptic medication, the court shall appoint a substitute decision-maker with authority to consent to the administration of neuroleptic medication as provided in this section. The substitute decision-maker must be an individual or a community or institutional multidisciplinary panel designated by the local mental health authority. In appointing a substitute decision-maker, the court shall give preference to a guardian or conservator, proxy, or ~~attorney-in-fact~~ health care agent with authority to make health care decisions for the patient. The court may provide for the payment of a reasonable fee to the substitute decision-maker for services under this section or may appoint a volunteer.

(b) If the person's treating physician recommends treatment with neuroleptic medication, the substitute decision-maker may give or withhold consent to the administration of the medication, based on the standards under subdivision 7. If the substitute decision-maker gives informed consent to the treatment and the person does not refuse, the substitute decision-maker shall provide written consent to the treating physician and the medication may be administered. The substitute decision-maker shall also notify the court that consent has been given. If the substitute decision-maker refuses or withdraws consent or the person refuses the medication, neuroleptic medication may not be administered to the person without a court order or in an emergency.

(c) A substitute decision-maker appointed under this section has access to the pertinent sections of the patient's health records on the past or present administration of medication. The designated agency or a person involved in the patient's physical or mental health care may disclose information to the substitute decision-maker for the sole purpose of performing the responsibilities under this section.

(d) At a hearing under section 253B.08, the petitioner has the burden of proving incapacity by a preponderance of the evidence. If a substitute decision-maker has been appointed by the court, the court shall make findings regarding the patient's capacity to make decisions regarding the administration of neuroleptic medications and affirm or reverse its appointment of a substitute decision-maker. If the court affirms the appointment of the substitute decision-maker, and if the substitute decision-maker has consented to the administration of the medication and the patient has not refused, the court shall make findings that the substitute decision-maker has consented and the treatment is authorized. If a substitute decision-maker has not yet been appointed, upon request the court shall make findings regarding the patient's capacity and appoint a substitute decision-maker if appropriate.

(e) If an order for civil commitment or early intervention did not provide for the appointment of a substitute decision-maker or for the administration of neuroleptic medication, the treatment facility may later request the appointment of a substitute decision-maker upon a showing that administration of neuroleptic medications is recommended and that the person lacks capacity to make decisions regarding the administration of neuroleptic medications. A hearing is not required in order to administer the neuroleptic medication unless requested under subdivision 10 or if the substitute decision-maker withholds or refuses consent or the person refuses the medication.

(f) The substitute decision-maker's authority to consent to treatment lasts for the duration of the court's order of appointment or until modified by the court.

If the substitute decision-maker withdraws consent or the patient refuses consent, neuroleptic medication may not be administered without a court order.

(g) If there is no hearing after the preliminary hearing, then the court shall, upon the request of any interested party, review the reasonableness of the substitute decision-maker's decision based on the standards under subdivision 7. The court shall enter an order upholding or reversing the decision within seven days.

Sec. 32. Minnesota Statutes 1996, section 525.55, subdivision 1, is amended to read:

Subdivision 1. [TIME OF NOTICE; TO WHOM GIVEN.] In all cases, upon the filing of the petition the court shall fix the time and place for the hearing and shall order that notice be given of the hearing. At least 14 days prior to the hearing, personal service of the notice shall be made upon the proposed ward or conservatee. Notice by mail postmarked at least 14 days before the hearing shall also be served on:

(1) the spouse, parents, adult children, brothers and sisters;

(2) a health care agent or proxy appointed pursuant to a health care directive as defined in section 145C.01, a living will under chapter 145B, or other similar document executed in another state and enforceable under the laws of this state; and,

(3) if none of those in clause (1) or (2) are alive or can be located, on the nearest kindred as determined by the court, and on any other persons the court may direct,~~by mail postmarked at least 14 days prior to the hearing.~~

If the person is a patient ~~or~~ resident, or client of any hospital, nursing home, home care agency, or other institution, notice by mail shall also be given to the administrative head of the institution. If the person is a nonresident or if after diligent search cannot be found in this state, notice shall be given in the manner and to those persons as the court may determine.

Sec. 33. Minnesota Statutes 1996, section 525.55, subdivision 2, is amended to read:

Subd. 2. [FORM; SERVICE.] The notice shall be written in language which can be easily understood. Included with the notice shall be a copy of the petition. The notice shall contain information regarding the nature, purpose and legal effects of the guardianship or conservatorship proceedings on the proposed ward or conservatee. The notice shall state that the person may be adjudged incapable of self care for person or property, and by reason thereof, a guardian or conservator may be appointed, and that the adjudication may transfer to the appointed guardian or conservator certain rights, including the right to manage and control property, to enter into contracts and to determine residence. The notice shall further contain information regarding the rights of the proposed ward or conservatee in the proceeding, including the right to attend the hearing, to be represented by an attorney, to oppose the proceeding, and to present evidence. The notice shall state that if the proposed ward or conservatee wishes to exercise the right to be represented by an attorney, that person must either obtain counsel of choice, or ask the court to appoint an attorney to represent that person, and that the county shall pay a reasonable attorney's fee if that person is indigent. The procedure for requesting a court appointed attorney shall be described in the notice. If the proposed ward or conservatee is a patient, resident, or client of any hospital, nursing home, home care agency, or other institution, the notice must further require the institution to advise the court of the existence, if known, of a health care directive, as defined in section 145C.01, executed by the proposed ward or conservatee, a living will executed under chapter 145B, or any other similar document executed in another state and enforceable under the laws of this state.

The process server shall inquire whether the proposed ward or conservatee desires the notice and petition to be read to that person, and shall read the notice and petition if requested to do so. In place of a process server, the court may appoint a visitor to deliver the notice and petition and explain them to the proposed ward or conservatee.

Sec. 34. Minnesota Statutes 1996, section 525.551, subdivision 1, is amended to read:

Subdivision 1. [ATTENDANCE AT HEARING.] If the proposed ward or conservatee is within the state, that person shall be present at the hearing unless in a meeting with a visitor that person specifically waives the right to appear in person or is not able to attend by reason of medical

condition as evidenced by a written statement from a licensed physician. The written statement shall be evidence only of the proposed ward's or conservatee's medical inability to attend the hearing, and shall not be considered in determining the issue of incapacity. The written statement must also inform the court of the physician's knowledge, if any, of the existence of a health care directive, as defined in section 145C.01, executed by the proposed ward or conservatee, a living will executed under chapter 145B, or any other similar document executed in another state and enforceable under the laws of this state. In any instance in which a proposed ward or conservatee is absent from the hearing, the court shall specify in its findings of fact the reason for nonattendance.

If a visitor delivered the notice and petition pursuant to section 525.55 and the proposed ward or conservatee has waived the right to attend the hearing, the visitor may testify as to the notice and any waiver of the right to appear in person, and as to other matters which may assist the court in determining the need for a guardian or conservator and the extent of the power to be granted.

Sec. 35. Minnesota Statutes 1996, section 525.551, subdivision 5, is amended to read:

Subd. 5. [FINDINGS.] In all cases the court shall make specific written findings of fact, state separately its conclusions of law, and direct the entry of an appropriate judgment or order.

If upon completion of the hearing and consideration of the record the court finds: (a) that the requirements for the voluntary appointment of a conservator or guardian have been met, or (b)(1) that the proposed ward or conservatee is incapacitated as defined in section 525.54; and (2) in need of the supervision and protection of a guardian or conservator; and (3) that no appropriate alternatives to the guardianship or conservatorship exist which are less restrictive of the person's civil rights and liberties, such as those set forth in section 525.54, subdivision 7, it shall enter its order or judgment granting all of the powers set out in section 525.56, subdivision 3, in the case of a guardian of the person, and section 525.56, subdivision 4, in the case of a guardian of the estate, or specifying the powers of the conservator pursuant to section 525.56. The court shall make a finding that appointment of the person chosen as guardian or conservator is in the best interests of the ward or conservatee. Except as provided in section 525.544, subdivision 1, if more than one person has petitioned the court to serve as guardian or conservator, or if the petition is contested, the court shall make a finding that the person to be appointed as guardian or conservator is the most suitable and best qualified person among those who are available before making the appointment. The court's finding as to the best available guardian must specifically address the reasons for the court's determination that the appointment of that person is in the best interests of the ward or conservatee. The court must also clarify the respective legal authorities of a guardian or conservator appointed under this chapter and any existing health care agent or proxy appointed under a health care directive as defined in section 145C.01, a living will under chapter 145B, or other similar document executed in another state and enforceable under the laws of this state.

The court may enumerate in its findings which legal rights the proposed ward or conservatee is incapable of exercising.

Sec. 36. Minnesota Statutes 1996, section 525.9212, is amended to read:

525.9212 [MAKING, REVOKING, AND OBJECTING TO ANATOMICAL GIFTS, BY OTHERS.]

(a) Any member of the following classes of persons, in the order of priority listed, may make an anatomical gift of all or a part of the decedent's body for an authorized purpose, unless the decedent has made a refusal to make that anatomical gift that is unrevoked at the time of death:

- (1) the spouse of the decedent;
- (2) an adult son or daughter of the decedent;
- (3) either parent of the decedent;
- (4) an adult brother or sister of the decedent;
- (5) a grandparent of the decedent; and

(6) a guardian or conservator of the person of the decedent at the time of death or a health care agent or proxy appointed by the decedent under a health care directive as defined in section 145C.01, a living will under chapter 145B, or other similar document executed in another state and enforceable under the laws of this state.

(b) An anatomical gift may not be made by a person listed in paragraph (a) if:

- (1) a person in a prior class is available at the time of death to make an anatomical gift;
- (2) the person proposing to make an anatomical gift knows of a refusal or contrary indications by the decedent; or
- (3) the person proposing to make an anatomical gift knows of an objection to making an anatomical gift by a member of the person's class or a prior class.

(c) An anatomical gift by a person authorized under paragraph (a) must be made by (i) a document of gift signed by the person, or (ii) the person's telegraphic, recorded telephonic, or other recorded message, or other form of communication from the person that is contemporaneously reduced to writing and signed by the recipient.

(d) An anatomical gift by a person authorized under paragraph (a) may be revoked by any member of the same or a prior class if, before procedures have begun for the removal of a part from the body of the decedent, the physician, surgeon, technician, or enucleator removing the part knows of the revocation.

(e) A failure to make a decision as to an anatomical gift under paragraph (a) is not an objection to the making of an anatomical gift.

Sec. 37. Minnesota Statutes 1996, section 609.215, subdivision 3, is amended to read:

Subd. 3. [ACTS OR OMISSIONS NOT CONSIDERED AIDING SUICIDE OR AIDING ATTEMPTED SUICIDE.] (a) A health care provider, as defined in section 145B.02, subdivision 6, who administers, prescribes, or dispenses medications or procedures to relieve another person's pain or discomfort, even if the medication or procedure may hasten or increase the risk of death, does not violate this section unless the medications or procedures are knowingly administered, prescribed, or dispensed to cause death.

(b) A health care provider, as defined in section 145B.02, subdivision 6, who withholds or withdraws a life-sustaining procedure in compliance with chapter 145B or 145C or in accordance with reasonable medical practice does not violate this section.

Sec. 38. [EFFECT OF AMENDMENTS.]

A document executed prior to August 1, 1998, that purports to be a living will under Minnesota Statutes, chapter 145B, a durable power of attorney for health care under Minnesota Statutes, chapter 145C, or a declaration regarding intrusive mental health treatment under Minnesota Statutes, section 253B.03, subdivision 6a, is valid if the document:

- (1) complied with the law in effect on the date it was executed; or
- (2) complies with the requirements of Minnesota Statutes, section 145C.03.

If the document complied with the law in effect on the date it was executed but does not also comply with the requirements of Minnesota Statutes, section 145C.03, it shall be given effect in accordance with the laws in effect on the date it was executed, unless the document provides otherwise.

Nothing in sections 1 to 38 impairs the evidentiary effect under common law or reasonable medical practice with respect to other written or oral expressions of an individual's desires regarding health care.

Sec. 39. [EFFECTIVE DATE.]

Sections 1 to 38 are effective August 1, 1998."

Delete the title and insert:

"A bill for an act relating to health; modifying provisions governing advance health care directives; combining laws governing living wills and durable power of attorney for health care; amending Minnesota Statutes 1996, sections 144.335, subdivision 1; 145C.01, subdivisions 2, 3, 4, 8, and by adding subdivisions; 145C.02; 145C.03; 145C.04; 145C.05, subdivisions 1 and 2 ; 145C.06; 145C.07; 145C.08; 145C.09; 145C.10; 145C.11; 145C.12; 145C.13, subdivision 1; 145C.15; 525.55, subdivisions 1 and 2; 525.551, subdivisions 1 and 5; 525.9212; and 609.215, subdivision 3; Minnesota Statutes 1997 Supplement, sections 149A.80, subdivision 2; 253B.04, subdivision 1a; 253B.07, subdivision 1; and 253B.092, subdivisions 2 and 6; proposing coding for new law in Minnesota Statutes, chapters 145B; and 145C."

And when so amended the bill do pass. Amendments adopted. Report adopted.

**Ms. Piper, Messrs. Pogemiller and Stumpf from the Committee on Children, Families and Learning, to which was re-referred**

**S.F. No. 2522:** A bill for an act relating to education; establishing a regional distribution of regents; changing the membership and recommendation procedures of the regent candidate advisory council; amending Minnesota Statutes 1996, section 137.0245, subdivisions 2 and 4; proposing coding for new law in Minnesota Statutes, chapter 137; repealing Minnesota Statutes 1996, section 137.024.

Report the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1996, section 137.0245, subdivision 2, is amended to read:

Subd. 2. [MEMBERSHIP.] The regent candidate advisory council shall consist of 24 ~~18~~ members. ~~Twelve~~ Six members shall be appointed by the subcommittee on committees of the committee on rules and administration of the senate. ~~Twelve~~ Six members shall be appointed by the ~~speaker of the house of representatives, four by the speaker and two by the minority leader. No more than one-third of the members appointed by each appointing authority may be current or former legislators. No more than two-thirds of the members appointed by each appointing authority may belong to the same political party; however, political activity or affiliation is not required for the appointment of any member~~ Six members shall be appointed by the governor. Geographical Geographic and gender representation must be taken into consideration when making appointments. Section 15.0575 shall govern the advisory council, except that the members shall be appointed to six-year terms with one-third appointed each even-numbered year.

Sec. 2. Minnesota Statutes 1996, section 137.0245, subdivision 4, is amended to read:

Subd. 4. [RECOMMENDATIONS.] The advisory council shall recommend ~~at least two and not more than four~~ candidates for each vacancy. ~~By March 15~~ February 1 of each odd-numbered year, the advisory council shall submit its recommendations to the president of the senate and the speaker of the house of representatives. The governor is encouraged to endorse regent candidates and to communicate this endorsement to the house and senate education committees. The legislature shall not be bound by these recommendations.

Sec. 3. [TRANSITION OF ADVISORY COUNCIL MEMBERS.]

Terms of all members of the regent candidate advisory council are terminated on June 30, 1998. By July 1, 1998, the house, senate, and governor's office shall make their appointments to the council, as provided in section 1. These appointments may include current council members. The subcommittee on committees of the committee on rules and administration of the senate and speaker of the house shall each appoint one member to an initial two-year term, one member to an initial four-year term, and two members to initial six-year terms. The minority leaders shall each appoint one member to an initial two-year term and one member to an initial four-year term. The

governor shall appoint two members to initial two-year terms, two members to initial four-year terms, and two members to initial six-year terms.

Sec. 4. [LEGISLATIVE RULES.]

No force or effect shall be given to the results of any congressional district caucus election in the regent election process.

Sec. 5. [EFFECTIVE DATE.]

Sections 1 to 4 are effective the day following final enactment."

Amend the title as follows:

Page 1, line 6, delete "; proposing" and insert a period

Page 1, delete lines 7 and 8

And when so amended the bill do pass. Amendments adopted. Report adopted.

**Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred for proper reference under Rule 35:**

**S.F. No. 3378** reports the same back with the recommendation that the bill be re-referred as follows:

S.F. No. 3378 to the Committee on Education Finance.

Report adopted.

**Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred under Rule 35, together with the committee report thereon,**

**S.F. No. 2296:** A bill for an act relating to the environment; clarifying the liability of contractors performing certain response and development actions under MERLA; clarifying time for filing an action under MERLA; amending Minnesota Statutes 1996, sections 115B.03, by adding a subdivision; and 115B.11.

Reports the same back with the recommendation that the report from the Committee on Environment and Natural Resources, shown in the Journal for February 18, 1998, be adopted; that committee recommendation being:

"the bill be amended and when so amended the bill do pass". Amendments adopted. Report adopted.

**Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred under Rule 35, together with the committee report thereon,**

**S.F. No. 3109:** A bill for an act relating to agriculture; adding requirements for manure storage structures; requiring a report on manure applicator training; requiring a generic environmental impact statement on feedlots; establishing a voluntary rural dispute resolution procedure; appropriating money; amending Minnesota Statutes 1997 Supplement, section 116.07, subdivision 7; Laws 1986, chapter 398, article 1, section 18, as amended; proposing coding for new law in Minnesota Statutes, chapter 583.

Reports the same back with the recommendation that the report from the Committee on Agriculture and Rural Development, shown in the Journal for February 19, 1998, be amended to read:

"the bill be amended and when so amended the bill do pass and be re-referred to the Committee on Environment and Natural Resources". Amendments adopted. Report adopted.

**SECOND READING OF SENATE BILLS**

S.F. Nos. 2050, 2522 and 2296 were read the second time.

**MOTIONS AND RESOLUTIONS - CONTINUED**

Mr. Beckman moved that the name of Ms. Lesewski be added as a co-author to S.F. No. 3080. The motion prevailed.

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate proceeded to the Order of Business of Introduction and First Reading of Senate Bills.

**INTRODUCTION AND FIRST READING OF SENATE BILLS**

The following bill was read the first time and referred to the committee indicated.

**Messrs. Morse, Lessard, Laidig, Frederickson and Ms. Krentz introduced--**

**S.F. No. 3380:** A bill for an act relating to the environment; authorizing spending to acquire and to better public land and buildings and other public improvements; appropriating money; amending Minnesota Statutes 1996, sections 17.117, subdivision 3; 85.019, subdivision 4a, and by adding a subdivision; 103F.725, subdivision 1a; 116.16, subdivision 5; 116.182, subdivision 1, and by adding a subdivision; and 446A.072, subdivisions 2, 4, 7, 9, and 12; Minnesota Statutes 1997 Supplement, sections 84.027, subdivision 15; and 116.18, subdivision 3c; proposing coding for new law in Minnesota Statutes, chapter 85; repealing Minnesota Statutes 1997 Supplement, section 446A.072, subdivision 4a.

Referred to the Committee on State Government Finance.

**RECESS**

Mr. Moe, R.D. moved that the Senate do now recess until 3:00 p.m. The motion prevailed. The hour of 3:00 p.m. having arrived, the President called the Senate to order.

**CALL OF THE SENATE**

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

**MOTIONS AND RESOLUTIONS - CONTINUED**

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Order of Business of Reports of Committees.

**REPORTS OF COMMITTEES**

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

**Mr. Langseth from the Committee on Education Finance, to which was re-referred**

**S.F. No. 3378:** A bill for an act relating to education; prekindergarten through grade 12; providing for general education; special education; interagency service; lifelong learning; technology; facilities and organization; academic excellence; education policy; state agencies; appropriating money; amending Minnesota Statutes 1996, sections 15.014, subdivision 3; 119B.20, subdivisions 5, 8, and 12; 120.03, subdivisions 1 and 5; 120.06, subdivision 2a; 120.062, subdivision 5; 120.064, subdivisions 4, 5, 9, 14, 17, 21, and 24; 120.101, subdivisions 3, 7, and 8; 120.102, subdivision 3; 120.17, subdivisions 1, 2, 3, 3a, 3b, 7a, 9, and 15; 120.1701, subdivisions 2, 5, 11, and 17; 120.173, subdivisions 1 and 6; 120.66, subdivisions 1 and 2; 120.73, subdivision 1; 120.74, subdivision 1; 121.02, subdivision 1; 121.11, subdivision 7d; 121.1115, subdivision 1, and by adding a subdivision; 121.14; 121.148, subdivision 3; 121.16, by adding subdivisions; 121.1601, subdivision 2; 121.612, subdivisions 2, 3, 6, 7, and 9; 121.908, subdivisions 2 and 3; 121.932, subdivision 5, and by adding a subdivision; 122.23, subdivisions 2b and 6; 123.34, subdivision 9; 123.35, subdivision 19a; 123.3514, by adding a subdivision; 123.39, subdivision 1, and by adding a subdivision; 123.805, subdivision 1; 123.935, subdivisions 1 and 2; 124.078; 124.17, subdivision 2; 124.225, subdivisions 7f and 8m; 124.239, as amended; 124.248, subdivisions 1 and 1a; 124.26, subdivision 1c; 124.2713, subdivision 6a; 124.2727, subdivisions 6a and 6c; 124.273, by adding a subdivision; 124.32, by adding a subdivision; 124.3201, subdivision 5; 124.646, subdivision 4; 124.755, subdivision 1; 124.83, subdivision 8; 124.84, subdivisions 3 and 4; 124.85, subdivision 4; 124.91, subdivisions 2, 4, and 6; 124.95, as amended; 124A.03, subdivision 3c; 124A.034, subdivision 2; 124A.036, subdivisions 1a, 4, 6, and by adding a subdivision; 124A.22, by adding a subdivision; 124A.29, subdivision 1; 124A.292, subdivision 3; 124A.30; 124C.45, subdivision 2; 124C.47; 124C.48, by adding a subdivision; 125.05, subdivisions 4 and 8; 125.183, subdivisions 1 and 3; 125.1885, subdivisions 1, 4, and 5; 125.191; 126.237; 126.70, subdivision 2a; 127.27, subdivision 2; 128A.02, subdivisions 1, 3, 3b, 5, 6, and by adding subdivisions; 128A.022; 128A.023, subdivisions 1 and 2; 128A.026, subdivisions 1 and 3; 128A.07, subdivision 2; 169.448, subdivision 2; 169.451, subdivision 5; 256B.0625, subdivision 26; 268.665, subdivision 3; and 471.18; Minnesota Statutes 1997 Supplement, sections 16B.465, subdivision 4; 120.05, subdivision 2; 120.064, subdivisions 3, 8, 10, and 14a; 120.1045, subdivision 1; 120.1701, subdivision 3; 121.1113, subdivision 1; 121.15, subdivision 6; 121.615, subdivisions 2, 6, 7, and 10; 121.904, subdivision 4a; 124.17, subdivisions 1d, 4, 6, and 7; 124.195, subdivision 7; 124.248, subdivisions 2a and 6; 124.26, subdivision 2; 124.2601, subdivisions 3 and 6; 124.2711, subdivision 2a; 124.2713, subdivision 6; 124.3111, subdivision 2; 124.6475; 124.648, subdivision 3; 124.91, subdivisions 1, 5, and 7, as amended; 124.961; 124A.036, subdivision 5; 124A.22, subdivisions 2, 11, and 13b; 124A.23, subdivision 1; 124A.28, subdivisions 1 and 1a; 124C.46, subdivisions 1 and 2; 125.05, subdivisions 1c and 2; 126.79, subdivisions 6, 7, 8, and 9; 127.27, subdivisions 10 and 11; 127.31, subdivision 15; 127.32; 127.36, subdivision 1; 127.38; 128A.02, subdivision 7; 169.01, subdivision 6; 169.974, subdivision 2; 268.665, subdivision 2; and 290.0674, subdivision 1; Laws 1992, chapter 499, article 7, section 31; Laws 1993, chapter 224, article 3, section 32; Laws 1997, chapter 157, section 71; Laws 1997, First Special Session chapter 4, article 1, section 61, subdivision 3; article 2, section 51, subdivisions 15, 25, 29, and 33; article 3, section 25, subdivision 4; article 4, sections 33, 34, and 35, subdivision 9; article 5, section 28, subdivisions 9, 10, 11, and 12; article 6, section 20, subdivision 4; article 8, section 4, subdivision 3; article 9, section 11; article 10, sections 3, subdivision 2; 4, and 5; proposing coding for new law in Minnesota Statutes, chapters 120; 123; and 124A; repealing Minnesota Statutes 1996, sections 121.02, subdivisions 2a, 3, and 4; 121.11, subdivisions 5, 7, 7b, 7d, 9, 11, 12, and 14; 121.904, subdivision 4c; 124.2601, subdivision 4; 124.2713, subdivision 6b; 124.2727, subdivision 6b; 124.32, subdivision 13; 124.491; 124.492; 124.493; 124.494; 124.4945; 124.4946; 124.495; 124.647; 124.82; 124.83, subdivisions 4, 5, and 7; 124A.292, subdivisions 2 and 4; 124C.55; 124C.56; 124C.57; 124C.60, subdivision 2; 124C.71; 124C.72; 124C.73; and 126.12; Minnesota Statutes 1997 Supplement, sections 120.1015; 121.11, subdivision 7e; 124.155, subdivisions 1 and 2; 124.2601, subdivision 5; 124.825, subdivisions 3 and 4; 124.912, subdivisions 2 and 3; 124C.60, subdivisions 1 and 3; and 169.452; Laws 1997, chapter 231, article 1, section 17; Minnesota Rules, part 3525.2750, subpart 1, item B.

Reports the same back with the recommendation that the bill be amended as follows:

Page 22, line 3, strike "1999" and insert "2000"



Page 22, line 4, strike "1997" and insert "1998"

Page 30, line 28, delete "and" and insert a comma

Page 30, line 30, after "recipient" insert ", and for whom the district has secured informed consent consistent with section 13.05, subdivision 4, paragraph (d), and section 256B.77, subdivision 2, paragraph (p), to bill for each type of covered service"

And when so amended the bill do pass and be re-referred to the Committee on Taxes. Amendments adopted. Report adopted.

### **MOTIONS AND RESOLUTIONS - CONTINUED**

Ms. Kiscaden moved that S.F. No. 2783, No. 30 on General Orders, be stricken and re-referred to the Committee on Human Resources Finance. The motion prevailed.

### **MEMBERS EXCUSED**

Mr. Lessard was excused from the Session of today from 9:00 a.m to 12:45 p.m. Mr. Novak was excused from the Session of today from 11:00 a.m. to 12:00 noon. Ms. Anderson was excused from the Session of today from 11:20 a.m. to 12:00 noon. Mrs. Fischbach was excused from the Session of today from 12:00 noon to 3:00 p.m.

### **ADJOURNMENT**

Mr. Moe, R.D. moved that the Senate do now adjourn until 10:00 a.m., Thursday, February 26, 1998. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate



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