A bill for an act

relating to government contracts; modifying certain conflict of interest standards; amending Minnesota Statutes 2008, sections 16C.04, subdivision 3; 471.87.

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

Section 1. Minnesota Statutes 2008, section 16C.04, subdivision 3, is amended to read:

Subd. 3. **Organizational conflicts of interest.** (a)<u>(1)</u> The commissioner shall make reasonable efforts to avoid, mitigate, or neutralize organizational conflicts of interest. To avoid an organizational conflict of interest, the commissioner may utilize methods including disqualifying a vendor from eligibility for a contract award or canceling the contract if the conflict is discovered after a contract has been issued. To mitigate or neutralize a conflict, the commissioner may use methods such as revising the scope of work to be conducted, allowing vendors to propose the exclusion of task areas that create a conflict, or providing information to all vendors to assure that all facts are known to all vendors.

<u>(2) An organizational conflict of interest exists if a vendor other than a natural person makes a contribution, as defined in section 10A.01, subdivision 10, or an independent expenditure, as defined in section 10A.01, subdivision 18, to support or oppose a candidate for state office, any time up to 48 months prior to the date the contract is awarded, through the term of the contract. The commissioner must disqualify a vendor from eligibility for a contract award or cancel a contract that has already been issued for any conflict arising under this clause. The terms of any contract must include a provision allowing the contract to be canceled, without penalty, if cancellation is required by this subdivision.</u>

(b) In instances where a conflict or potential conflict has been identified and the commissioner determines that vital operations of the state will be jeopardized if a contract with the vendor is not established, the commissioner may waive the requirements in paragraph (a).

EFFECTIVE DATE. <u>This section is effective the day following final enactment and applies to contracts for which solicitation documents are issued on or after that date.</u>

Sec. 2. Minnesota Statutes 2008, section 471.87, is amended to read:

471.87 ~~PUBLIC OFFICERS,~~ INTEREST IN CONTRACT; PENALTY.

<u>Subdivision 1.</u> <u>**Public officers; penalty.**</u> Except as authorized in section 471.88, a public officer who is authorized to take part in any manner in making any sale, lease, or contract in official capacity shall not voluntarily have a personal financial interest in that sale, lease, or contract or personally benefit financially therefrom. Every public officer who violates this provision is guilty of a gross misdemeanor.

<u>Subd. 2.</u> <u>**Organizational conflicts of interest.**</u> <u>(a) An organizational conflict of interest exists if a business makes an expenditure to support or oppose any candidate for public office who is authorized, or would be authorized if elected, to take part in any manner in soliciting bids for a contract, or approving or negotiating the terms of a contract with a business in an official capacity. The organizational conflict of interest exists if an expenditure has been made any time up to 48 months prior to the date a contract is awarded, through the term of the contract. A business must be disqualified from eligibility for a contract award, or an existing contract must be canceled, for any conflict arising under this subdivision. The terms of any contract must include a provision allowing for the contract to be canceled, without penalty, if cancellation is required by this subdivision.</u>

<u>(b) As used in this subdivision, "expenditure" includes a contribution as defined in section 211A.01, subdivision 5, and any expenditure expressly advocating the election or defeat of a clearly identified candidate, if the expenditure is made without the express or implied consent, authorization, or cooperation of, and not done in concert with or at the request or suggestion of, any candidate or candidate's campaign committee or agent.</u>

EFFECTIVE DATE. <u>This section is effective the day following final enactment and applies to contracts for which solicitation documents are issued on or after that date.</u>