

ONE HUNDRED SIXTH DAY

St. Paul, Minnesota, Monday, May 15, 2006

The Senate met at 11:00 a.m. and was called to order by the President.

CALL OF THE SENATE

Senator Johnson, D.E. imposed a call of the Senate. The Sergeant at Arms was instructed to bring in the absent members.

Prayer was offered by the Chaplain, Rev. Craig Richter.

The members of the Senate gave the pledge of allegiance to the flag of the United States of America.

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

Anderson	Foley	Kubly	Nienow	Senjem
Bachmann	Frederickson	Langseth	Olson	Skoe
Bakk	Gerlach	Larson	Ortman	Skoglund
Belanger	Hann	LeClair	Pappas	Solon
Berglin	Higgins	Limmer	Pogemiller	Sparks
Betzold	Hottinger	Lourey	Ranum	Stumpf
Bonoff	Johnson, D.E.	Marko	Reiter	Tomassoni
Chaudhary	Johnson, D.J.	Marty	Rest	Vickerman
Clark	Jungbauer	McGinn	Robling	Wergin
Cohen	Kelley	Metzen	Rosen	Wiger
Day	Kierlin	Michel	Ruud	
Dibble	Kiscaden	Moua	Sams	
Dille	Koch	Murphy	Saxhaug	
Fischbach	Koering	Neuville	Scheid	

The President declared a quorum present.

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

EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communications were received.

May 11, 2006

The Honorable James P. Metzen
President of the Senate

Dear President Metzen:

Please be advised that I have received, approved, signed and deposited in the Office of the

Secretary of State, S.F. No. 2646.

Sincerely,
Tim Pawlenty, Governor

May 11, 2006

The Honorable Steve Sviggum
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 2006 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

S.F. No.	H.F. No.	Session Laws Chapter No.	Time and Date Approved 2006	Date Filed 2006
2646		192	12:25 p.m. May 11	May 11
	3285	194	12:30 p.m. May 11	May 11
	2514	196	12:20 p.m. May 11	May 11
	3712	201	11:10 a.m. May 11	May 11

Sincerely,
Mary Kiffmeyer,
Secretary of State

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, herewith returned: S.F. No. 1039.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 11, 2006

Mr. President:

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

S.F. No. 3526: A bill for an act relating to highways; designating the Shawn Silvera Memorial Highway; amending Minnesota Statutes 2004, section 161.14, by adding a subdivision.

Senate File No. 3526 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 11, 2006

CONCURRENCE AND REPASSAGE

Senator Bachmann moved that the Senate concur in the amendments by the House to S.F. No. 3526 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 3526 was read the third time, as amended by the House, and placed on its repassage.

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

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

Those who voted in the affirmative were:

Anderson	Fischbach	Koch	Murphy	Saxhaug
Bachmann	Foley	Koering	Neuville	Scheid
Bakk	Frederickson	Kubly	Nienow	Senjem
Belanger	Gerlach	Langseth	Ortman	Skoe
Berglin	Hann	Larson	Pappas	Skoglund
Betzold	Higgins	LeClair	Pogemiller	Solon
Bonoff	Hottinger	Limmer	Ranum	Sparks
Clark	Johnson, D.E.	Lourey	Reiter	Stumpf
Cohen	Johnson, D.J.	Marty	Rest	Tomassoni
Day	Jungbauer	McGinn	Robling	Vickerman
Dibble	Kelley	Metzen	Ruud	Wergin
Dille	Kierlin	Moua	Sams	Wiger

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

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 3144, 3079 and 3718.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 11, 2006

FIRST READING OF HOUSE BILLS

The following bills were read the first time.

H.F. No. 3144: A bill for an act relating to health; establishing requirements for assisted living services; changing provisions for housing with services establishment; limiting use of the term assisted living; establishing an advisory committee to recommend a consumer information guide; modifying the home care bill of rights for assisted living clients; changing provisions for long-term care; making facility rate increases; changing provisions for alternative services for elderly and disabled persons; requiring the commissioner of human services to confer with advocacy groups; appropriating money; amending Minnesota Statutes 2004, sections 144.0724, subdivisions 3, 4; 144A.071, subdivision 4a; 144A.10, by adding a subdivision; 144A.161, subdivisions 1, 2, 3, 4, 5, 5a, 5c, 6, 8, by adding a subdivision; 144A.4605; 144D.01, by adding a subdivision; 144D.015; 144D.02; 144D.03, subdivision 2, by adding a subdivision; 144D.04; 144D.05; 144D.065; 256B.434, by adding subdivisions; 256B.437, subdivision 3; 256B.438, subdivision 4; 256B.69, subdivision 9, by adding a subdivision; Minnesota Statutes 2005 Supplement, sections 144A.071, subdivision 1a; 256B.0918, subdivisions 1, 3, 4; 256B.434, subdivision 4; 256B.69, subdivision 23; Laws 2005, First Special Session chapter 4, article 9, section 5, subdivision 8; proposing coding for new law in Minnesota Statutes, chapters 144A; 144D; proposing coding for new law as

Minnesota Statutes, chapter 144G; repealing Minnesota Rules, part 4668.0215.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 2888, now on General Orders.

H.F. No. 3079: A bill for an act relating to civil actions; limiting liability on tort claims brought against the state or a municipality; limiting liability on claims brought against a governmental unit participating in a joint venture or enterprise; amending Minnesota Statutes 2004, sections 3.736, subdivision 4; 466.04, subdivision 1; 471.59, by adding a subdivision.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 2648, now on General Orders.

H.F. No. 3718: A bill for an act relating to transportation; requiring language that the state will purchase plug-in hybrid electric vehicles when commercially available to be inserted in certain bid documents; creating a task force.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 3440, now on General Orders.

REPORTS OF COMMITTEES

Senator Johnson, D.E. moved that the Committee Report at the Desk be now adopted. The motion prevailed.

Senator Johnson, D.E., from the Committee on Rules and Administration, to which was referred

H.F. No. 3383 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		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
3383	3148				

and that the above Senate File be indefinitely postponed.

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

SECOND READING OF HOUSE BILLS

H.F. No. 3383 was read the second time.

MOTIONS AND RESOLUTIONS

Senator Sparks introduced –

Senate Resolution No. 206: A Senate resolution congratulating Emily Bachmeier for winning the Fourth Annual Young Citizen of the Year Award at Ellis Middle School in Austin.

Referred to the Committee on Rules and Administration.

Senator Sparks introduced –

Senate Resolution No. 207: A Senate resolution congratulating Olivia Grev for winning the Fourth Annual Young Citizen of the Year Award at Ellis Middle School in Austin.

Referred to the Committee on Rules and Administration.

Senator Sparks introduced –

Senate Resolution No. 208: A Senate resolution congratulating Alexandra Holten for winning the Fourth Annual Young Citizen of the Year Award at Ellis Middle School in Austin.

Referred to the Committee on Rules and Administration.

Senator Sparks introduced –

Senate Resolution No. 209: A Senate resolution congratulating Haley Underwood for winning the Fourth Annual Young Citizen of the Year Award at Ellis Middle School in Austin.

Referred to the Committee on Rules and Administration.

Senators LeClair, Bachmann, Marko and Wiger introduced –

Senate Resolution No. 210: A Senate resolution honoring Dick Stafford on the occasion of his retirement.

Referred to the Committee on Rules and Administration.

Senator Clark introduced –

Senate Resolution No. 211: A Senate resolution recognizing St. John's Episcopal Church of St. Cloud on its 150th Anniversary.

Referred to the Committee on Rules and Administration.

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.

Senators Rosen, Nienow, Koering, Neuville and Wergin introduced–

S.F. No. 3808: A bill for an act relating to human services; adjusting medical assistance operating payment rates for low-payment rate nursing facilities; appropriating money; amending Minnesota Statutes 2004, section 256B.434, by adding a subdivision.

Referred to the Committee on Health and Family Security.

Senators Gerlach and LeClair introduced—

S.F. No. 3809: A bill for an act relating to taxes; individual income; providing a health insurance credit; proposing coding for new law in Minnesota Statutes, chapter 290.

Referred to the Committee on Taxes.

RECESS

Senator Johnson, D.E. moved that the Senate do now recess until 12:30 p.m. The motion prevailed.

The hour of 12:30 p.m. having arrived, the President called the Senate to order.

CALL OF THE SENATE

Senator Johnson, D.E. 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 Messages From the House and First Reading of House Bills.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following House File, herewith transmitted: H.F. No. 1862.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 15, 2006

FIRST READING OF HOUSE BILLS

The following bill was read the first time.

H.F. No. 1862: A bill for an act relating to health; establishing practice standards and evidence-based guidelines for treating patients; implementing health care cost-containment measures; requiring the disclosure of executive compensation; establishing liability limits for certain licensed ambulance services and medical directors; modifying the qualification standards of certain licenses; establishing certain fees; requiring a study of hospital uncompensated care; allowing discounted payment for health care under certain circumstances; regulating eligibility criteria for medical assistance special transportation services; allowing entity certain specific administrative efficiency reports to be published on the state agency Web sites; requiring certain reports; adding provisions for service cooperatives contracts; appropriating money; amending Minnesota Statutes 2004, sections 62D.095, subdivisions 3, 4; 62Q.64; 72A.20, by adding a subdivision; 123A.21, subdivision 7; 148.06, subdivision 1; 151.214, subdivision 1; Minnesota Statutes 2005 Supplement, section 214.071; Laws 2003, First Special Session chapter 14, article 12, section 93, as amended; proposing coding for new law in Minnesota Statutes, chapters 62J; 62M; 62Q; 144; 144E; 147; 148; 214; 256B; repealing Minnesota Statutes 2005 Supplement,

section 62Q.251.

Referred to the Committee on Finance.

MOTIONS AND RESOLUTIONS - CONTINUED

SPECIAL ORDERS

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

S.F. Nos. 3058, 2994, H.F. No. 2722, S.F. No. 2851, H.F. No. 2892, S.F. No. 2980 and H.F. No. 3302.

SPECIAL ORDER

S.F. No. 3058: A bill for an act relating to higher education; determining instructional service base; providing adjustments for enrollments; regulating tuition paid by seniors for certain courses; determining resident tuition; defining certain terms; eliminating obsolete language; authorizing the office to enter into certain agreements; amending certain data classification provisions; providing for loan rehabilitation; providing for temporary total disability for certain loans; amending work-study payment eligibility; authorizing the Minnesota State Colleges and Universities Board of Trustees to control certain depository services; limiting approval of certain higher education degrees; requiring certain studies; authorizing construction of an academic building; amending Minnesota Statutes 2004, sections 135A.031, subdivision 7, by adding subdivisions; 135A.053, subdivision 2; 136A.15, by adding a subdivision; 136A.16, by adding a subdivision; 136A.162; 136A.1701, by adding a subdivision; 136A.233, subdivision 3; 136F.02, subdivision 1; 136F.42, subdivision 1; 136F.71, subdivision 2, by adding a subdivision; Minnesota Statutes 2005 Supplement, sections 135A.52, subdivisions 1, 2; 136A.1701, subdivision 12; proposing coding for new law in Minnesota Statutes, chapters 135A; 136A; repealing Minnesota Statutes 2004, sections 135A.031, subdivision 5; 135A.033; 136A.15, subdivision 5; 136A.1702; Minnesota Statutes 2005 Supplement, section 135A.031, subdivisions 3, 4; Minnesota Rules, parts 4850.0011, subparts 9, 10, 14, 27; 4850.0014, subpart 1.

Senator Robling moved to amend S.F. No. 3058 as follows:

Page 10, line 31, before the period, insert "and nonvoting representatives of the Association of American Publishers, the postsecondary textbook publishers, the National Association of College Stores, and campus bookstore managers. Student members must be appointed according to Minnesota Statutes, section 136A.031, subdivision 4. Faculty members must be appointed from lists of two or more nominees submitted by the Inter-Faculty Organization, the Minnesota State College Faculty, and by groups representing faculty at each campus of the University of Minnesota"

The motion prevailed. So the amendment was adopted.

S.F. No. 3058 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 44 and nays 19, as follows:

Those who voted in the affirmative were:

Anderson
Bakk

Berglin
Betzold

Bonoff
Chaudhary

Clark
Cohen

Dibble
Foley

Frederickson	Koering	Metzen	Ranum	Skoglund
Higgins	Kubly	Michel	Robling	Solon
Hottinger	Langseth	Moua	Rosen	Stumpf
Johnson, D.E.	Larson	Murphy	Sams	Tomassoni
Kelley	Lourey	Neuville	Saxhaug	Vickerman
Kierlin	Marko	Pappas	Scheid	Wiger
Kiscaden	Marty	Pogemiller	Skoe	

Those who voted in the negative were:

Bachmann	Fischbach	Koch	Nienow	Senjem
Belanger	Hann	LeClair	Olson	Sparks
Day	Johnson, D.J.	Limmer	Reiter	Wergin
Dille	Jungbauer	McGinn	Ruud	

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

SPECIAL ORDER

S.F. No. 2994: A bill for an act relating to education; providing for prekindergarten through grade 12 education, including general education; education excellence; special education; facilities, accounting, and technology; state agencies; technical and conforming amendments; early childhood; authorizing rulemaking; appropriating money; amending Minnesota Statutes 2004, sections 119A.50, subdivision 1; 119A.52; 119A.53; 119A.545; 120A.20, subdivision 1; 120A.22, subdivision 3; 120B.021, subdivision 1; 120B.023; 120B.024; 121A.035; 121A.15, subdivision 10; 121A.17, subdivision 3; 122A.18, subdivision 2; 123A.06, subdivision 2; 123A.44; 123A.441; 123A.442; 123A.443; 123B.10, subdivision 1; 123B.77, subdivision 3, by adding a subdivision; 123B.90, subdivision 2; 123B.91, by adding a subdivision; 124D.02, subdivisions 2, 4; 124D.095, subdivision 3; 124D.096; 124D.10, subdivision 16; 124D.11, subdivision 9; 124D.13, subdivisions 2, 3; 124D.61; 124D.68, subdivision 3; 125A.02, subdivision 1; 125A.515, subdivisions 1, 3, 5, 6, 7, 9, 10; 125A.62, subdivision 1; 125A.63, subdivision 4; 125A.65, subdivisions 3, 4, 6, 8, 10; 125A.69, subdivision 3; 125A.75, subdivision 1, by adding a subdivision; 126C.05, subdivision 1; 126C.10, subdivision 6, by adding subdivisions; 126C.44; 127A.41, subdivision 2; 169.01, subdivision 6; 169.447, subdivision 2; 169.4501, subdivisions 1, 2; 169.4502, subdivision 5; 169.4503, subdivision 20; 171.321, subdivisions 4, 5; 181.101; 245A.023; 245A.14, by adding a subdivision; 299F.30; 626.556, subdivisions 3b, 3c; Minnesota Statutes 2005 Supplement, sections 120B.021, subdivision 1a; 120B.11, subdivision 2; 120B.131, subdivision 2; 121A.17, subdivision 5; 122A.414, subdivisions 2b, 3; 123B.04, subdivision 2; 123B.76, subdivision 3; 123B.92, subdivisions 1, 5; 124D.095, subdivision 4; 124D.175; 124D.68, subdivision 2; 125A.11, subdivision 1; 125A.79, subdivision 1; 126C.10, subdivisions 24, 31; 126C.43, subdivision 2; 127A.45, subdivision 10; 626.556, subdivisions 2, 3; Laws 2005, First Special Session chapter 5, article 2, section 84, subdivision 13; article 7, section 20, subdivision 5; proposing coding for new law in Minnesota Statutes, chapters 119A; 121A; repealing Minnesota Statutes 2004, sections 119A.51; 120A.20, subdivision 3; 121A.23; 123B.749; 125A.10; 125A.515, subdivision 2; 169.4502, subdivision 15; 169.4503, subdivisions 17, 18, 26.

Senator Kelley moved to amend S.F. No. 2994 as follows:

Page 17, line 30, delete "develop and utilize a request for proposal process" and insert "contract with the Minnesota Institute of Public Health"

Page 35, after line 20, insert:

"Sec. 24. Minnesota Statutes 2005 Supplement, section 124D.68, subdivision 2, is amended to read:

Subd. 2. **Eligible pupils.** The following pupils are eligible to participate in the graduation incentives program:

(a) any pupil under the age of 21 who:

(1) performs substantially below the performance level for pupils of the same age in a locally determined achievement test;

(2) is at least one year behind in satisfactorily completing coursework or obtaining credits for graduation;

(3) is pregnant or is a parent;

(4) has been assessed as chemically dependent;

(5) has been excluded or expelled according to sections 121A.40 to 121A.56;

(6) has been referred by a school district for enrollment in an eligible program or a program pursuant to section 124D.69;

(7) is a victim of physical or sexual abuse;

(8) has experienced mental health problems;

(9) has experienced homelessness sometime within six months before requesting a transfer to an eligible program;

(10) speaks English as a second language or has limited English proficiency; ~~or~~

(11) has withdrawn from school or has been chronically truant; or

(12) is being treated in a hospital in the seven-county metropolitan area for cancer or other life threatening illness or is the sibling of an eligible pupil who is being currently treated, and resides with the pupil's family at least 60 miles beyond the outside boundary of the seven-county metropolitan area; or

(b) any person who is at least 21 years of age and who:

(1) has received fewer than 14 years of public or nonpublic education, beginning at age 5;

(2) has not completed the requirements for a high school diploma; and

(3) at the time of application, (i) is eligible for unemployment benefits or has exhausted the benefits, (ii) is eligible for, or is receiving income maintenance and support services, as defined in section 116L.19, subdivision 5, or (iii) is eligible for services under the displaced homemaker program or any programs under the federal Jobs Training Partnership Act or its successor.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to eligible pupils in the 2005-2006 school year and later.

Sec. 25. Minnesota Statutes 2004, section 124D.68, subdivision 3, is amended to read:

Subd. 3. **Eligible programs.** (a) A pupil who is eligible according to subdivision 2 may enroll in area learning centers under sections 123A.05 to 123A.08.

(b) A pupil who is eligible according to subdivision 2 and who is between the ages of 16 and 21 may enroll in postsecondary courses under section 124D.09.

(c) A pupil who is eligible under subdivision 2, may enroll in any public elementary or secondary education program. However, a person who is eligible according to subdivision 2, clause (b), may enroll only if the school board has adopted a resolution approving the enrollment.

(d) A pupil who is eligible under subdivision 2, may enroll in any nonpublic, nonsectarian school that has contracted with the serving school district to provide educational services. However,

notwithstanding other provisions of this section, only a pupil who is eligible under subdivision 2, paragraph (a), clause (12), may enroll in a contract alternative school that is specifically structured to provide educational services to such a pupil.

(e) A pupil who is between the ages of 16 and 21 may enroll in any adult basic education programs approved under section 124D.52 and operated under the community education program contained in section 124D.19.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to eligible programs in the 2005-2006 school year and later."

Page 40, delete lines 13 to 16

Page 45, line 6, delete "November 30" and insert "October 15"

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Scheid moved to amend S.F. No. 2994 as follows:

Page 45, after line 23, insert:

"Sec. 42. **MATH AND SCIENCE ASSESSMENT STUDY.**

The commissioner of education may contract with Boston College for Minnesota 4th and 8th grade students to participate in the Trends in International Mathematics and Science Study (TIMSS) international assessment of student achievement in math and science. School districts must apply to participate in the study on a form and in the manner prescribed by the commissioner. The commissioner, in collaboration with Boston College, may select districts to participate in the study. The provisions of Minnesota Statutes, section 16C.08, do not apply to this contract."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Skoe moved to amend S.F. No. 2994 as follows:

Page 45, after line 23, insert:

"Sec. 42. **ADVISORY TASK FORCE ON MINNESOTA AMERICAN INDIAN TRIBES AND COMMUNITIES AND K-12 STANDARDS-BASED REFORM.**

(a) An advisory task force on Minnesota American Indian tribes and communities and K-12 standards-based reform is established to examine the impact of state and federal standards-based reform on Minnesota's K-12 students, including American Indian students, and to recommend to the legislature changes to the state's performance standards, content requirements, assessment measures, and teacher preparation programs to most effectively meet the education needs of all students, including American Indian students, enrolled in Minnesota schools. The task force, in consultation with American Indian educators and parents, and others who advocate for American Indian children, at least must determine if:

(1) state education standards and assessments are appropriate for American Indian students;

(2) American Indian students are fairly compared;

(3) American Indian students receive the assistance they need to achieve the state standards; and

(4) schools receive financial and technical assistance sufficient to meet the education needs of American Indian students.

(b) The commissioner of education shall appoint an advisory task force on Minnesota American Indian tribes and communities and K-12 standards-based reform that is composed of the following representatives: Department of Education staff experienced in working with American Indian students and programs; Minnesota American Indian tribes and communities; Minnesota School Boards Association; school administrators; Education Minnesota; the state Board of Teaching; a minority member and majority member both from the Minnesota House of Representatives and from the Minnesota Senate; the Minnesota Council on Indian Affairs; postsecondary faculty who serve as instructors in teacher preparation programs; local community service providers who work with Minnesota American Indian tribes and communities; and other representatives recommended by task force members. Task force members may not receive compensation and may not be reimbursed for expenses related to serving on the task force. The task force may receive, for the benefit of the task force, bequests, donations, or gifts for any proper purpose and apply the bequests, donations, or gifts to the purpose designated. Task force members' terms and other task force matters are subject to Minnesota Statutes, section 15.059. The task force must submit to the legislative committees having jurisdiction over education policy and finance a preliminary written report by February 15, 2007, and a final report by February 15, 2008, that includes any recommended changes to the state's performance standards, content requirements, assessment measures, and teacher preparation programs to most effectively meet the educational needs of all students, including American Indian students, enrolled in Minnesota schools.

(c) Upon request, the commissioner of education must provide the task force with technical and other support services. The commissioner must use funds from the current operating budget of the Department of Education to cover any costs the commissioner incurs in providing services to the task force.

(d) The task force expires on February 16, 2008.

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

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Wiger moved to amend S.F. No. 2994 as follows:

Page 45, after line 23, insert:

"Sec. 42. ADVISORY TASK FORCE ON OPTIONS FOR ACCELERATED K-12 TECHNOLOGY, SCIENCE, AND MATHEMATICS PROGRAMS THROUGHOUT MINNESOTA.

(a) An advisory task force on options for accelerated kindergarten through grade 12 technology, science, and mathematics programs throughout Minnesota is established to consider and recommend to the legislature alternatives for delivering accelerated technology, science, and mathematics programs to eligible students throughout Minnesota that include creating an academic center. Recommended programs must provide accelerated technology, science, and mathematics instruction to eligible students in grades 6 through 12 and be cost effective and efficiently implemented and operated. Other recommended programs may offer accelerated technology, science, and mathematics instruction to other eligible elementary grade students, provide out-of-school and summer school K-12 technology, science, and mathematics instruction throughout the state, provide professional development for K-12 teachers in technology, science, and mathematics curriculum and instruction, and develop technology, science, and mathematics curriculum.

(b) The advisory task force at least must:

(1) evaluate and compare at least five alternatives for delivering accelerated technology, science, and mathematics programs to Minnesota students that include creating an academic center that may be patterned after the Perpich Center for Arts Education under Minnesota Statutes, chapter 129C, and may include online learning, satellite technology, science, and mathematics centers, and a consortium of available accelerated technology, science, and mathematics or accelerated education programs, among other alternatives, and evaluate how such programs may be integrated into the academic center;

(2) identify and evaluate possible members for a science, mathematics, engineering, and technology leadership consortium composed of representatives of corporations, organizations, educational institutions, and research facilities to help implement accelerated K-12 technology, science, and mathematics programs in Minnesota that include creating an academic center;

(3) evaluate and compare at least three alternatives for preparing and assisting educational leaders who are literate in technology, science, and mathematics to help implement accelerated K-12 technology, science, and mathematics programs in Minnesota that include creating an academic center and may include gifted education and accelerated technology, science, and mathematics teacher training programs, and evaluate how such programs may be integrated into the academic center; and

(4) identify and evaluate postsecondary career and technical education programs offering or requiring accelerated technology, science, and mathematics instruction.

(c) The commissioner of education shall appoint a 17-member advisory task force on options for accelerated K-12 technology, science, and mathematics programs throughout Minnesota that represents the following representatives: a gifted education coordinator, an educator holding a gifted education certificate or an instructor in a graduate level gifted education program; a currently licensed or retired high school physical science teacher; a currently licensed or retired high school mathematics teacher; a faculty member providing instruction under the Minnesota postsecondary enrollment options program or an educator providing instruction under the college in the schools program; a faculty member or educator providing instruction in the Minnesota talented youth mathematics program; a University of Minnesota mathematics or engineering professor; a University of Minnesota physical science professor; a manager or director in a high technology field, corporation, organization, or facility; a manager or director in a medical field or profession; a manager or director in a research-based field, corporation, organization, or facility; one or more parents of high school students gifted in technology, mathematics, or science; a physical science teacher and a biology teacher, one of whom is licensed to teach middle level students and one of whom is licensed to teach high school level students; a high school career and technical instructor; a faculty member in a postsecondary institution offering technical two-year degrees who provides career and technical instruction; a manager or director in a technology, mathematics, or science industry who employs persons with associate degrees in a technical field; a manager or director in the biosciences industry; and two at-large members. In appointing members, the commissioner must attempt to ensure geographic balance. Task force members must actively seek the participation of gifted and talented students to advise the task force throughout its existence on any recommendations the task force proposes to submit to the legislature and on any other recommendations related to this section. Task force members may not receive compensation and may not be reimbursed for expenses related to serving on the task force. The task force may receive, for the benefit of the task force, bequests, donations, or gifts for any proper purpose and apply the bequests, donations, or gifts to the purpose designated. Notwithstanding any other law to the contrary, the task force may conduct meetings of its members by telephone or other electronic means where all members can hear one another and all the discussion, at least one member is physically present at the regular meeting location, and interested members of the public can hear all the discussion. Task force members' terms and other task force matters are subject to Minnesota Statutes, section 15.059. The task force must submit by January 30, 2007, a

written report and presentation to the education policy and finance committees of the legislature that include recommendations on alternatives for delivering accelerated technology, science, and mathematics programs to eligible students throughout Minnesota.

(d) Upon request, the commissioner of education must provide the task force with technical and other support services. The commissioner must use funds from the current operating budget of the Department of Education to cover any costs the commissioner incurs in providing services to the task force.

(e) The task force expires June 30, 2007.

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

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Pappas moved to amend S.F. No. 2994 as follows:

Page 9, after line 5, insert:

"Sec. 13. Minnesota Statutes 2005 Supplement, section 126C.17, subdivision 9, is amended to read:

Subd. 9. Referendum revenue. (a) The revenue authorized by section 126C.10, subdivision 1, may be increased in the amount approved by the voters of the district at a referendum called for the purpose. The referendum may be called by the board or shall be called by the board upon written petition of qualified voters of the district. The referendum must be conducted one or two calendar years before the increased levy authority, if approved, first becomes payable. Only one election to approve an increase may be held in a calendar year. Unless the referendum is conducted by mail under paragraph (g), the referendum must be held on the first Tuesday after the first Monday in November. The ballot must state the maximum amount of the increased revenue per resident marginal cost pupil unit. The ballot may state a schedule, determined by the board, of increased revenue per resident marginal cost pupil unit that differs from year to year over the number of years for which the increased revenue is authorized or may state that the amount shall increase annually by the rate of inflation. For this purpose, the rate of inflation shall be the annual inflationary increase calculated under subdivision 2, paragraph (b). The ballot may state that existing referendum levy authority is expiring. In this case, the ballot may also compare the proposed levy authority to the existing expiring levy authority, and express the proposed increase as the amount, if any, over the expiring referendum levy authority. The ballot must designate the specific number of years, not to exceed ten, for which the referendum authorization applies. The ballot, including a ballot on the question to revoke or reduce the increased revenue amount under paragraph (c), must abbreviate the term "per resident marginal cost pupil unit" as "per pupil." The notice required under section 275.60 may be modified to read, in cases of renewing existing levies:

"BY VOTING "YES" ON THIS BALLOT QUESTION, YOU MAY BE VOTING FOR A PROPERTY TAX INCREASE."

The ballot may contain a textual portion with the information required in this subdivision and a question stating substantially the following:

"Shall the increase in the revenue proposed by (petition to) the board of, School District No. ..., be approved?"

If approved, an amount equal to the approved revenue per resident marginal cost pupil unit times the resident marginal cost pupil units for the school year beginning in the year after the levy is certified shall be authorized for certification for the number of years approved, if applicable, or until

revoked or reduced by the voters of the district at a subsequent referendum.

(b) The board must prepare and deliver by first class mail at least 15 days but no more than 30 days before the day of the referendum to each taxpayer a notice of the referendum and the proposed revenue increase. The board need not mail more than one notice to any taxpayer. For the purpose of giving mailed notice under this subdivision, owners must be those shown to be owners on the records of the county auditor or, in any county where tax statements are mailed by the county treasurer, on the records of the county treasurer. Every property owner whose name does not appear on the records of the county auditor or the county treasurer is deemed to have waived this mailed notice unless the owner has requested in writing that the county auditor or county treasurer, as the case may be, include the name on the records for this purpose. The notice must project the anticipated amount of tax increase in annual dollars for typical residential homesteads, agricultural homesteads, apartments, and commercial-industrial property within the school district.

The notice for a referendum may state that an existing referendum levy is expiring and project the anticipated amount of increase over the existing referendum levy in the first year, if any, in annual dollars for typical residential homesteads, agricultural homesteads, apartments, and commercial-industrial property within the district.

The notice must include the following statement: "Passage of this referendum will result in an increase in your property taxes." However, in cases of renewing existing levies, the notice may include the following statement: "Passage of this referendum may result in an increase in your property taxes."

(c) A referendum on the question of revoking or reducing the increased revenue amount authorized pursuant to paragraph (a) may be called by the board and shall be called by the board upon the written petition of qualified voters of the district. A referendum to revoke or reduce the revenue amount must state the amount per resident marginal cost pupil unit by which the authority is to be reduced. Revenue authority approved by the voters of the district pursuant to paragraph (a) must be available to the school district at least once before it is subject to a referendum on its revocation or reduction for subsequent years. Only one revocation or reduction referendum may be held to revoke or reduce referendum revenue for any specific year and for years thereafter.

(d) A petition authorized by paragraph (a) or (c) is effective if signed by a number of qualified voters in excess of 15 percent of the registered voters of the district on the day the petition is filed with the board. A referendum invoked by petition must be held on the date specified in paragraph (a).

(e) The approval of 50 percent plus one of those voting on the question is required to pass a referendum authorized by this subdivision.

(f) At least 15 days before the day of the referendum, the district must submit a copy of the notice required under paragraph (b) to the commissioner and to the county auditor of each county in which the district is located. Within 15 days after the results of the referendum have been certified by the board, or in the case of a recount, the certification of the results of the recount by the canvassing board, the district must notify the commissioner of the results of the referendum.

EFFECTIVE DATE. This section is effective for referenda conducted on or after July 1, 2006."

ReNUMBER the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Pappas moved to amend S.F. No. 2994 as follows:

Page 81, after line 30, insert:

"ARTICLE 8**POSTSECONDARY EDUCATION**

Section 1. Minnesota Statutes 2004, section 135A.031, is amended by adding a subdivision to read:

Subd. 3a. **Determination of instructional services base.** The instructional services base for each public postsecondary system is the sum of: (1) the state share; (2) the legislatively estimated tuition for the second year of the most recent biennium; and (3) adjustments for inflation and enrollment changes as calculated in subdivision 4a.

Sec. 2. Minnesota Statutes 2004, section 135A.031, is amended by adding a subdivision to read:

Subd. 4a. **Adjustment for enrollments.** (a) Each public postsecondary system's instructional services base shall be adjusted for estimated changes in enrollments. For each two percent change in estimated full-year equivalent enrollment, an adjustment shall be made to 65 percent of the instructional services base. The remaining 35 percent of the instructional services base is not subject to the adjustment in this subdivision.

(b) When student enrollment is used for budgeting purposes, the student enrollment shall be measured in full-year equivalents and shall include only enrollments in courses that award credit or otherwise satisfy any of the requirements of an academic or vocational program.

(c) The enrollment adjustment shall be made for each year of the subsequent biennium. The base enrollment year is the 1995 fiscal year enrollment. The base enrollment shall be updated for each two percent change in estimated full-year equivalent enrollment. If the actual enrollment differs from the estimated enrollment, an adjustment shall be made in the next biennium.

Sec. 3. Minnesota Statutes 2004, section 135A.031, subdivision 7, is amended to read:

Subd. 7. **Reports.** Instructional expenditure and enrollment data for each instructional category shall be submitted to the Office of Higher Education and the Department of Finance and included in the biennial budget document. The specific data shall be submitted only after the director of the Office of Higher Education has consulted with a data advisory task force to determine the need, content, and detail of the information.

Sec. 4. **[135A.043] RESIDENT TUITION.**

(a) A student shall qualify for a resident tuition rate or its equivalent at state universities and colleges, including the University of Minnesota, if the student meets all of the following requirements:

(1) high school attendance within the state for three or more years;

(2) graduation from a state high school or attainment within the state of the equivalent of high school graduation; and

(3) registration as an entering student at, or current enrollment in, a public institution of higher education.

(b) This section is in addition to any other statute, rule, or higher education institution regulation or policy providing eligibility for a resident tuition rate or its equivalent to a student.

(c) To qualify for resident tuition under this section an individual who is not a citizen or permanent resident of the United States must provide the college or university with an affidavit that the individual will file an application to become a permanent resident at the earliest opportunity the individual is eligible to do so.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to

tuition for school terms commencing on or after that date.

Sec. 5. Minnesota Statutes 2004, section 135A.053, subdivision 2, is amended to read:

Subd. 2. **Performance and accountability.** Higher education systems and campuses are expected to achieve the objectives in subdivision 1 and will be held accountable for doing so. The legislature is increasing the flexibility of the systems and campuses to provide greater responsibility to higher education in deciding how to achieve statewide objectives, and to decentralize authority so that those decisions can be made at the level where the education is delivered. ~~To demonstrate their accountability, the legislature expects each system and campus to measure and report on its performance, using meaningful indicators that are critical to achieving the objectives in subdivision 1, as provided in section 135A.033.~~ Nothing in this section precludes a system or campus from determining its own objectives and performance measures beyond those identified in this section.

Sec. 6. Minnesota Statutes 2005 Supplement, section 135A.52, subdivision 1, is amended to read:

Subdivision 1. **Fees and tuition.** Except for an administration fee established by the governing board at a level to recover costs, to be collected only when a course is taken for credit, a senior citizen who is a legal resident of Minnesota is entitled without payment of tuition or activity fees to attend courses offered for credit, audit any courses offered for credit, or enroll in any noncredit courses in any state supported institution of higher education in Minnesota when space is available after all tuition-paying students have been accommodated. A senior citizen enrolled under this section must pay any materials, personal property, or service charges for the course. In addition, a senior citizen who is enrolled in a course for credit must pay an administrative fee in an amount established by the governing board of the institution to recover the course costs. There shall be no administrative fee charges to a senior citizen auditing a course. For the purposes of this section and section 135A.51, the term "noncredit courses" shall not include those courses designed and offered specifically and exclusively for senior citizens.

The provisions of this section and section 135A.51 do not apply to noncredit courses designed and offered by the University of Minnesota, and the Minnesota State Colleges and Universities specifically and exclusively for senior citizens. Senior citizens enrolled under the provisions of this section and section 135A.51 shall not be included by such institutions in their computation of full-time equivalent students when requesting staff or appropriations.

Sec. 7. Minnesota Statutes 2005 Supplement, section 135A.52, subdivision 2, is amended to read:

Subd. 2. **Term; income of senior citizens.** (a) Except under paragraph (b), there shall be no limit to the number of terms, quarters, or semesters a senior citizen may attend courses, nor income limitation imposed in determining eligibility.

(b) A senior citizen enrolled in a closed enrollment contract training ~~or professional continuing education~~ program is not eligible for benefits under subdivision 1.

Sec. 8. Minnesota Statutes 2004, section 136A.15, is amended by adding a subdivision to read:

Subd. 10. **Eligible cosigner.** "Eligible cosigner" means a cosigner who:

- (1) is at least 24 years old, and at least 18 years old if a sibling;
- (2) is a United States citizen or permanent resident;
- (3) permanently resides in the United States;
- (4) agrees to the release of information to a consumer credit reporting agency, as specified in section 136A.162, paragraph (b); and
- (5) is creditworthy by meeting all of the following requirements:

(i) no balances at a consumer credit reporting agency discharged through bankruptcy within the seven years prior to application for credit;

(ii) no garnishments, attachments, foreclosure, repossession, or defendant in a suit to collect a debt appearing on the credit report;

(iii) no tax or mechanics liens or judgments appearing on the credit report;

(iv) no items that are charged off or are delinquent for 120 days or more, that in total exceed \$50; and

(v) no more than five percent of current balances at a consumer credit reporting agency past due, that in total exceed \$50.

The office may establish alternative credit requirements using credit scoring.

Sec. 9. Minnesota Statutes 2004, section 136A.16, is amended by adding a subdivision to read:

Subd. 16. Interest rate swaps and other agreements. (a) The office may enter into interest rate exchange or swap agreements, hedges, forward purchase or sale agreements, or other comparable interest rate protection agreements with a third party in connection with the issuance or proposed issuance of bonds, outstanding bonds or notes, or existing comparable interest rate protection agreements.

(b) The agreements authorized by this subdivision include, without limitation, master agreements, options, or contracts to enter into those agreements in the future and related agreements, including, without limitation, agreements to provide credit enhancement, liquidity, or remarketing.

(c) The agreements authorized by this subdivision may be entered into on the basis of negotiation with a qualified third party or through a competitive proposal process on terms and conditions as and with covenants and provisions approved by the office and may include, without limitation:

(1) provisions establishing reserves;

(2) pledging assets or revenues of the office for current or other payments or termination payments;

(3) contracting with the other parties to the agreements to provide for the custody, collection, securing, investment, and payment of money of the office or money held in trust; or

(4) requiring the issuance of bonds or other agreements authorized by this section in the future.

(d) With respect to bonds or notes outstanding or proposed to be issued bearing interest at a variable rate, the office may agree to pay sums equal to interest at a fixed rate or at a different variable rate determined in accordance with a formula set out in the agreement on an amount not exceeding the outstanding principal amount of the bonds or notes at the time of payment in exchange for an agreement by the third party to pay sums equal to interest on a like amount at a variable rate determined according to a formula set out in the agreement.

(e) With respect to bonds or notes outstanding or proposed to be issued bearing interest at a fixed rate or rates, the office may agree to pay sums equal to interest at a variable rate determined in accordance with a formula set out in the agreement on an amount not exceeding the outstanding principal amount of the bonds or notes at the time of payment in exchange for an agreement by the third party to pay sums equal to interest on a like amount at a fixed rate or rates determined according to a formula set in the agreement.

(f) Subject to any applicable covenants of the office, payments required to be made by the office under the agreement, including termination payments, may be made from amounts pledged or available to pay debt service on the bonds or notes with respect to which the agreement was made

or from assets of the loan capital fund of the office. The office may issue bonds or notes to provide for any payments, including, without limitation, a termination payment due or to become due under an agreement authorized under this section.

Sec. 10. Minnesota Statutes 2004, section 136A.162, is amended to read:

136A.162 CLASSIFICATION OF DATA.

~~All~~ (a) Except as provided in paragraphs (b) and (c), data on applicants for financial assistance collected and used by the Higher Education Services Office for student financial aid programs administered by that office ~~shall be classified as~~ are private data on individuals ~~under as defined in~~ section 13.02, subdivision 12. ~~Exceptions to this classification are that:~~

~~(a) the names and addresses of program recipients or participants are public data;~~

(b) Data on applicants may be disclosed to the commissioner of human services to the extent necessary to determine eligibility under section 136A.121, subdivision 2, clause (5); ~~and.~~

(c) The following data collected in the Minnesota supplemental loan program under section 136A.1701 may be disclosed to a consumer credit reporting agency only if the borrower and the cosigner give informed consent, according to section 13.05, subdivision 4, at the time of application for a loan:

- (1) the lender-assigned borrower identification number;
- (2) the name and address of borrower;
- (3) the name and address of cosigner;
- (4) the date the account is opened;
- (5) the outstanding account balance;
- (6) the dollar amount past due;
- (7) the number of payments past due;
- (8) the number of late payments in previous 12 months;
- (9) the type of account;
- (10) the responsibility for the account; and
- (11) the status or remarks code.

Sec. 11. Minnesota Statutes 2005 Supplement, section 136A.1701, subdivision 12, is amended to read:

Subd. 12. **Eligible student.** "Eligible student" means a student who is a Minnesota resident who is enrolled or accepted for enrollment at an eligible institution in Minnesota or in another state ~~or province~~. Non-Minnesota residents are eligible students if they are enrolled or accepted for enrollment in a minimum of one course of at least 30 days in length during the academic year that requires physical attendance at an eligible institution located in Minnesota. Non-Minnesota resident students enrolled exclusively during the academic year in correspondence courses or courses offered over the Internet are not eligible students. Non-Minnesota resident students not physically attending classes in Minnesota due to enrollment in a study abroad program for 12 months or less are eligible students. Non-Minnesota residents enrolled in study abroad programs exceeding 12 months are not eligible students. For purposes of this section, an "eligible student" must also meet the eligibility requirements of section 136A.15, subdivision 8.

Sec. 12. Minnesota Statutes 2004, section 136A.1701, is amended by adding a subdivision to

read:

Subd. 13. **Cosigner requirement.** All borrowers under this section must have an eligible cosigner. The cosigner is jointly and separately responsible for making loan payments, including principal, interest, and other charges.

Sec. 13. [136A.1704] LOAN REHABILITATION.

(a) For SELF loans that have defaulted, the borrower or cosigner has the option to rehabilitate the loan, as loan rehabilitation is not prohibited under any federal or state statute, rule, regulation, act, or requirement.

(b) A defaulted SELF loan can be rehabilitated only once and rehabilitation can only be attempted twice per loan.

(c) An agreement specifying the required payment amount and payment due date must be signed by the borrower or cosigner prior to the start of the rehabilitation process and within two years of the default date.

(d) Twelve consecutive months of on-time payments are required to consider the loan rehabilitated. There is a five-business-day grace period.

(e) If the loan is paid in full within 90 days of default, the loan will be considered rehabilitated upon receipt of a rehabilitation request.

(f) Rehabilitation results in removal of the defaulted status, but not the past due history, from the credit bureau.

Sec. 14. [136A.1705] TEMPORARY TOTAL DISABILITY.

A temporary total disability for up to three years may be granted to a borrower upon medical certification that the total disability is expected to last four months or longer. The total disability must have originated after the loan was fully disbursed. The borrower is required to provide a certification from a qualified physician. A qualified physician is a doctor of medicine or osteopathy who is legally authorized to practice medicine. Periodic recertifications of the total disability status must be provided upon request. During the approved total disability period, the loan does not accrue interest. The borrower shall be given the option to sign a payment extension agreement at the time payments are resumed.

Sec. 15. Minnesota Statutes 2004, section 136A.233, subdivision 3, is amended to read:

Subd. 3. Payments. Work-study payments shall be made to eligible students by postsecondary institutions as provided in this subdivision.

(a) Students shall be selected for participation in the program by the postsecondary institution on the basis of student financial need.

(b) In selecting students for participation, priority must be given to students enrolled for at least 12 credits. In each academic year, a student may be awarded work-study payments for one period of nonenrollment or less than half-time enrollment if the student enrolls on at least a half-time basis during the following academic term.

(c) Students will be paid for hours actually worked and the maximum hourly rate of pay shall not exceed the maximum hourly rate of pay permitted under the federal college work-study program.

(d) Minimum pay rates will be determined by an applicable federal or state law.

(e) The office shall annually establish a minimum percentage rate of student compensation to be paid by an eligible employer.

(f) Each postsecondary institution receiving money for state work-study grants shall make a reasonable effort to place work-study students in employment with eligible employers outside the institution. However, a public employer other than the institution may not terminate, lay off, or reduce the working hours of a permanent employee for the purpose of hiring a work-study student, or replace a permanent employee who is on layoff from the same or substantially the same job by hiring a work-study student.

(g) The percent of the institution's work-study allocation provided to graduate students shall not exceed the percent of graduate student enrollment at the participating institution.

(h) An institution may use up to 30 percent of its allocation for student internships with private, for-profit employers.

Sec. 16. Minnesota Statutes 2004, section 136F.02, subdivision 1, is amended to read:

Subdivision 1. **Membership.** The board consists of 15 members appointed by the governor with the advice and consent of the senate. At least one member of the board must be a resident of each congressional district. Three members must be students who are enrolled at least half time in a degree, diploma, or certificate program or have graduated from an institution governed by the board within one year of the date of appointment. The student members shall include: one member from a community college, one member from a state university, and one member from a technical college. The remaining members must be appointed to represent the state at large. At least one member must be a representative of organized labor and at least one member must be a representative of business.

EFFECTIVE DATE. This section is effective the day following final enactment, applies to appointments to the board made on and after that date, and must be complied with as soon as vacancies can be filled.

Sec. 17. Minnesota Statutes 2004, section 136F.42, subdivision 1, is amended to read:

Subdivision 1. **Time reporting.** As provided in Executive Order 96-2, the board, in consultation with the commissioners of employee relations and finance, may develop policies to allow system office or campus employees on salaries, as defined in section 43A.17, subdivision 1, to use negative time reporting in which employees report only that time for which leave is taken. ~~By the end of the 1997 fiscal year, the board, in consultation with the commissioners of employee relations and finance, shall evaluate the use of negative time reporting and its potential for use with other state employees.~~

Sec. 18. Minnesota Statutes 2004, section 136F.71, subdivision 2, is amended to read:

Subd. 2. **Activity funds.** All receipts attributable to the state colleges and universities activity funds ~~and deposited in the state treasury~~ are appropriated to the board and are not subject to budgetary control as exercised by the commissioner of finance.

Sec. 19. Minnesota Statutes 2004, section 136F.71, is amended by adding a subdivision to read:

Subd. 4. **Banking services.** Notwithstanding section 16A.27, the board shall have authority to control the amount and manner of deposit of all receipts described in this section in depositories selected by the board. The board's authority shall include specifying the considerations, financial activities, and conditions required from the depository, including the requirement of collateral security or a corporate surety bond as described in section 118A.03. The board may compensate the depository, including paying a reasonable charge to the depository, maintaining appropriate compensating balances with the depository, or purchasing non-interest-bearing certificates of deposit from the depository for performing depository-related services.

Sec. 20. **TEMPORARY PROVISION FOR APPROVAL OF CERTAIN HIGHER EDUCATION DEGREES.**

Subdivision 1. **Supersede.** This section supersedes any conflicting Minnesota statute or rule.

Subd. 2. **Degree approval.** A school licensed pursuant to Minnesota Statutes, chapter 141, may not grant a degree as defined in Minnesota Statutes, section 136A.62, subdivision 4, unless the degree is approved by the Office of Higher Education.

Subd. 3. **Approval criteria.** A school licensed pursuant to Minnesota Statutes, chapter 141, to obtain approval to grant a degree must provide evidence to the Office of Higher Education that the following requirements are met:

(1) the school employs qualified teaching personnel to provide the educational programs for each degree for which approval is sought;

(2) the educational program is appropriate to each degree for which approval is sought;

(3) the school has appropriate and accessible library, laboratory, and other physical facilities to support the education program for each degree for which approval is sought; and

(4) the school makes a rationale showing that the degree programs are consistent with the school's mission and goals.

Subd. 4. **Effect of approval.** Approval to grant a degree under this section has the same effect as approval under Minnesota Statutes, section 136A.65.

Subd. 5. **Notice of changes.** A school authorized to grant a degree under this section must notify the Office of Higher Education of proposed changes to the degree and the addition of majors or specialty areas to a degree.

Subd. 6. **Expiration.** This section expires June 30, 2007.

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

Sec. 21. HIGHER EDUCATION TEXTBOOK COST STUDY.

The Minnesota Office of Higher Education shall convene an advisory task force to study the costs of required textbooks for students attending public and nonpublic postsecondary institutions. The task force must, at a minimum, include students, faculty, and administrators. The study must, without limitation, examine textbook pricing trends and strategies, the practice of textbook rental, policies related to repurchase of textbooks from students, textbook selection policies, and purchasing practices of colleges and universities. The task force must review the findings and recommendations of other existing studies and any state or national laws that have been considered or adopted to reduce the financial burden of textbook costs. The office must report on its findings and present any recommendations by January 15, 2007, to the legislative committees with jurisdiction over higher education policy and finance.

Sec. 22. MINNESOTA STATE UNIVERSITY, MANKATO, CONSTRUCTION AUTHORIZATION.

The Board of Trustees of the Minnesota State Colleges and Universities may design, construct, furnish, and equip an academic building on the Minnesota State University, Mankato campus for the College of Business at a site approved by the board using nonstate money.

Sec. 23. UNIVERSITY OF MINNESOTA LICENSING AND MINNESOTA MARKET IMPACT STUDY.

The University of Minnesota is requested to establish a task force to study the market impact on Minnesota producers of agricultural products from the University of Minnesota licensing germplasm and to make recommendations to the legislature and the Board of Regents on ways to mitigate any negative impacts on Minnesota businesses that arise from University of Minnesota license agreements.

The task force must include:

(1) a representative of the University of Minnesota;

(2) a representative of the Department of Agriculture, serving as the chair; and

(3) representatives of the Minnesota Farm Bureau, the Minnesota Farmers Union, agricultural commodity organizations, the Minnesota Apple Growers Association, the Minnesota Fruit and Vegetable Growers Association, the Minnesota Nursery Landscape Association, and the Minnesota Grown Program. The chair may also invite participation from other staff and faculty of the University of Minnesota as necessary to fulfill the purpose of the task force. Members serve on the task force on a voluntary basis.

The task force is requested to report to the committees of the legislature with responsibility for higher education no later than January 15, 2007.

Sec. 24. REVISOR'S INSTRUCTION.

The revisor of statutes shall delete the term "sections 136A.15 to 136A.1702" and insert "sections 136A.15 to 136A.1705" wherever it appears in Minnesota Statutes and Minnesota Rules.

Sec. 25. REPEALER.

Minnesota Statutes 2004, sections 135A.031, subdivision 5; 135A.033; 136A.15, subdivision 5; and 136A.1702; Minnesota Statutes 2005 Supplement, section 135A.031, subdivisions 3 and 4; and Minnesota Rules, parts 4850.0011, subparts 9, 10, 14, and 27; and 4850.0014, subpart 1, are repealed."

Amend the title accordingly

Senator Limmer questioned whether the amendment was germane.

CALL OF THE SENATE

Senator Limmer imposed a call of the Senate for the balance of the proceedings on S.F. No. 2994. The Sergeant at Arms was instructed to bring in the absent members.

The President ruled that the amendment was germane.

The question was taken on the adoption of the second Pappas amendment.

Senator Pappas moved that those not voting be excused from voting. The motion prevailed.

The roll was called, and there were yeas 37 and nays 28, as follows:

Those who voted in the affirmative were:

Anderson	Dibble	Langseth	Pogemiller	Solon
Bakk	Foley	Lourey	Ranum	Stumpf
Berglin	Higgins	Marko	Rest	Tomassoni
Betzold	Hottinger	Marty	Sams	Vickerman
Bonoff	Johnson, D.E.	Metzen	Saxhaug	Wiger
Chaudhary	Kelley	Moua	Scheid	
Clark	Kiscaden	Murphy	Skoe	
Cohen	Kubly	Pappas	Skoglund	

Those who voted in the negative were:

Bachmann	Hann	LeClair	Reiter
Belanger	Johnson, D.J.	Limmer	Robling
Day	Jungbauer	McGinn	Rosen
Dille	Kierlin	Michel	Ruud
Fischbach	Koch	Nienow	Senjem
Frederickson	Koering	Olson	Sparks
Gerlach	Larson	Ortman	Wergin

The motion prevailed. So the amendment was adopted.

Senator Hottinger moved to amend S.F. No. 2994 as follows:

Page 81, line 28, delete everything after the comma and insert "section 119B.03, subdivisions 6 and 8."

The motion prevailed. So the amendment was adopted.

Senator Pogemiller moved to amend S.F. No. 2994 as follows:

Page 13, after line 30, insert:

"Sec. 4. Minnesota Statutes 2004, section 120B.021, is amended by adding a subdivision to read:

Subd. 2a. Curriculum. Notwithstanding any law to the contrary, the Department of Education, a charter school, and a school district are prohibited from utilizing a nonscientificly based curriculum, such as intelligent design, to meet the required science academic standards under this section."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Stumpf moved to amend the second Pappas amendment to S.F. No. 2994, adopted by the Senate May 15, 2006, as follows:

Page 6, delete section 11

Renumber the sections in sequence and correct the internal references

The motion prevailed. So the amendment was adopted.

S.F. No. 2994 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 39 and nays 27, as follows:

Those who voted in the affirmative were:

Anderson	Dibble	Langseth	Pogemiller	Skoglund
Bakk	Foley	Lourey	Ranum	Solon
Berglin	Higgins	Marko	Rest	Sparks
Betzold	Hottinger	Marty	Rosen	Stumpf
Bonoff	Johnson, D.E.	Metzen	Sams	Tomassoni
Chaudhary	Kelley	Moua	Saxhaug	Vickerman
Clark	Kiscaden	Murphy	Scheid	Wiger
Cohen	Kubly	Pappas	Skoe	

Those who voted in the negative were:

Bachmann	Jungbauer	Neuville
Belanger	Kierlin	Nienow
Day	Koch	Olson
Dille	Koering	Ortman
Fischbach	Larson	Reiter
Frederickson	LeClair	Robling
Gerlach	Limmer	Ruud
Hann	McGinn	Senjem
Johnson, D.J.	Michel	Wergin

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

SPECIAL ORDER

H.F. No. 2722: A bill for an act relating to homeowner's insurance; regulating coverage for home-based adult foster care services; proposing coding for new law in Minnesota Statutes, chapter 65A.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 66 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Foley	Kubly	Nienow	Senjem
Bachmann	Frederickson	Langseth	Olson	Skoe
Bakk	Gerlach	Larson	Ortman	Skoglund
Belanger	Hann	LeClair	Pappas	Solon
Berglin	Higgins	Limmer	Pogemiller	Sparks
Betzold	Hottinger	Lourey	Ranum	Stumpf
Bonoff	Johnson, D.E.	Marko	Reiter	Tomassoni
Chaudhary	Johnson, D.J.	Marty	Rest	Vickerman
Clark	Jungbauer	McGinn	Robling	Wergin
Cohen	Kelley	Metzen	Rosen	Wiger
Day	Kierlin	Michel	Ruud	
Dibble	Kiscaden	Moua	Sams	
Dille	Koch	Murphy	Saxhaug	
Fischbach	Koering	Neuville	Scheid	

So the bill passed and its title was agreed to.

SPECIAL ORDER

S.F. No. 2851: A bill for an act relating to state lands; adding to and deleting from state parks, state forests, and recreation areas; modifying sustainable forest resource management incentive program; providing for public and private sales and exchanges of certain state lands; authorizing removal of certain land from the sustainable forest incentive program; providing for disposition of certain proceeds from tax-forfeited land sales in Itasca County; modifying prior sale provisions; amending Minnesota Statutes 2004, sections 290C.02, subdivisions 3, 7, 8; 290C.04; Laws 1999, chapter 161, section 31, subdivision 5, as amended; Laws 2005, chapter 161, section 19.

Senator Saxhaug moved to amend S.F. No. 2851 as follows:

Page 18, line 17, delete "59.8400.007" and insert "59.8408.007"

Page 28, after line 14, insert:

"Sec. 40. **CONSERVATION EASEMENTS FOR WETLAND RESTORATION; ST. LOUIS COUNTY.**

The commissioner of revenue, upon recommendation of the Board of County Commissioners for St. Louis County and the commissioner of natural resources, is authorized to convey a conservation easement on tax-forfeited lands for the purpose of restoration of wetlands to be utilized for mitigation of wetlands displaced by mining operations in St. Louis County. A conservation easement conveyed under this section shall be held by the Board of Water and Soil Resources.

Sec. 41. **PUBLIC SALE OR EXCHANGE OF SURPLUS LAND CONTAINING PEAT; ST. LOUIS COUNTY.**

(a) Notwithstanding Minnesota Statutes, section 92.461, the commissioner may sell by public

sale or may exchange the surplus land containing commercial quantities of peat that is described in paragraph (c). A public sale shall be under the provisions of Minnesota Statutes, sections 92.03 to 92.16. A land exchange shall be under the provisions of Minnesota Statutes, sections 94.341 to 94.346.

(b) The attorney general may make necessary changes to the legal description to correct errors and ensure accuracy.

(c) The land that may be sold or exchanged is located in St. Louis County and is described as follows: all of Section 36, Township 53 North, Range 20 West.

(d) If the adjoining tax-forfeited lands are made subject to a conservation easement to mitigate wetlands displaced by mining operations, the state has determined that the school trust land management interests would best be served if the land was sold or exchanged."

Page 30, after line 9, insert:

"Sec. 45. CONVEYANCE OF SURPLUS STATE LAND AT BRAINERD REGIONAL TREATMENT CENTER.

(a) Notwithstanding Minnesota Statutes, sections 16B.281 to 16B.287, or any other law, administrative rule, or commissioner's order to the contrary, the commissioner of administration may convey to a local unit of government for no consideration all or part of the real property at the Brainerd Regional Treatment Center for public purposes. The conveyance must be in a form approved by the attorney general and subject to Minnesota Statutes, section 16A.695.

(b) The commissioner may require the local unit of government to reimburse the state for all or part of any campus redevelopment funded and completed by the state.

(c) Notwithstanding Minnesota Statutes, section 16C.23, the commissioner of administration may convey to one or more local units of government for no consideration all or part of the personal property determined by the commissioner of human services to be no longer needed for human services operations.

(d) If a local unit of government sells any property conveyed under this section to a private entity, the sale must be at fair market value.

Sec. 46. EFFECTIVE DATE.

Unless otherwise specified, this act is effective the day following final enactment."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Tomassoni moved to amend S.F. No. 2851 as follows:

Page 28, after line 14, insert:

"Sec. 40. PRIVATE SALE OF TAX-FORFEITED LAND BORDERING PUBLIC WATER; ST. LOUIS COUNTY.

(a) Notwithstanding Minnesota Statutes, section 282.018, subdivision 1, and the public sale provisions of Minnesota Statutes, chapter 282, St. Louis County may sell by private sale the tax-forfeited land bordering the St. Louis River that is described in paragraph (c), under the remaining provisions of Minnesota Statutes, chapter 282.

(b) The conveyance must be in a form approved by the attorney general.

(c) The land to be sold is located in St. Louis County and is described as Gov. Lot 4, Section 27, T51N, R20W.

(d) Sale of the parcel shall be subject to the establishment of a permanent easement and associated land management plan approved by the St. Louis County land commissioner and the commissioner of natural resources, issued in accordance with Minnesota Statutes, section 282.37.

(e) The purpose and intent of the easement shall be to create and enhance fish habitat; to allow angling by the public from the shore, provided that access by the public to the shore is from the river only; and to prohibit the uncontrolled development of structures, including buildings, docks, and septic systems within an area near the shore.

(f) The area to be covered by the easement shall be the most restrictive of the following:

(1) the area between the Ordinary High Water (OHW) level of the east bank of the St. Louis River to a line running parallel to the river a distance of 450 feet in a landward direction from the east bank;

(2) the distance necessary to meet the setback and zoning requirements included in the "St. Louis River Management Plan" (produced by the St. Louis River Board, dated February 7, 1994); or

(3) the distance needed to meet any applicable county requirements.

(g) The county has determined that the county's land management interests would best be served if the land was sold."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator McGinn moved to amend S.F. No. 2851 as follows:

Page 5, after line 7, insert:

"Sec. 4. Minnesota Statutes 2004, section 85.053, is amended by adding a subdivision to read:

Subd. 8. Military personnel on leave; exemption. (a) The provisions of this section requiring a state park permit and regulating its display do not apply to a motor vehicle being used by a person who is serving in active military service in any branch or unit of the United States armed forces and who is stationed outside Minnesota, during the period of active service and for 90 days immediately thereafter, if the person notifies the park attendant on duty or other designee of the commissioner of the person's military status at the time of usage. It shall suffice for the notice that the eligible person temporarily affixes to the inside of the windshield of the vehicle in a visible manner the person's current military orders and carries in the person's possession current military identification attesting to the person's active or recent military status.

(b) For purposes of this section, "active service" has the meaning given under section 190.05, subdivision 5c, when performed outside Minnesota.

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

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

S.F. No. 2851 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 65 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Fischbach	Koch	Moua	Sams
Bachmann	Foley	Koering	Murphy	Saxhaug
Bakk	Frederickson	Kubly	Neuville	Scheid
Belanger	Gerlach	Langseth	Nienow	Senjem
Berglin	Hann	Larson	Olson	Skoe
Betzold	Higgins	LeClair	Ortman	Skoglund
Bonoff	Hottinger	Limmer	Pogemiller	Solon
Chaudhary	Johnson, D.E.	Lourey	Ranum	Sparks
Clark	Johnson, D.J.	Marko	Reiter	Stumpf
Cohen	Jungbauer	Marty	Rest	Tomassoni
Day	Kelley	McGinn	Robling	Vickerman
Dibble	Kierlin	Metzen	Rosen	Wergin
Dille	Kiscaden	Michel	Ruud	Wiger

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

SPECIAL ORDER

H.F. No. 2892: A bill for an act relating to higher education; authorizing the Minnesota State Colleges and Universities Board of Trustees to construct an academic building in Mankato.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 64 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Fischbach	Koch	Moua	Ruud
Bachmann	Foley	Koering	Murphy	Sams
Bakk	Frederickson	Kubly	Neuville	Scheid
Belanger	Gerlach	Langseth	Nienow	Senjem
Berglin	Hann	Larson	Olson	Skoe
Betzold	Higgins	LeClair	Ortman	Skoglund
Bonoff	Hottinger	Limmer	Pappas	Sparks
Chaudhary	Johnson, D.E.	Lourey	Pogemiller	Stumpf
Clark	Johnson, D.J.	Marko	Ranum	Tomassoni
Cohen	Jungbauer	Marty	Reiter	Vickerman
Day	Kelley	McGinn	Rest	Wergin
Dibble	Kierlin	Metzen	Robling	Wiger
Dille	Kiscaden	Michel	Rosen	

So the bill passed and its title was agreed to.

SPECIAL ORDER

S.F. No. 2980: A bill for an act relating to drivers' licenses; modifying definition of "conviction"; modifying content required on driver's license; allowing 60-day cancellation of driver's license when application information inadequate; making clarifying changes; amending Minnesota Statutes 2004, sections 171.01, subdivision 29; 171.14; Minnesota Statutes 2005 Supplement, section 171.07, subdivision 1.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 65 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Fischbach	Koch	Moua	Sams
Bachmann	Foley	Koering	Murphy	Saxhaug
Bakk	Frederickson	Kubly	Neuville	Scheid
Belanger	Gerlach	Langseth	Nienow	Senjem
Berglin	Hann	Larson	Olson	Skoe
Betzold	Higgins	LeClair	Ortman	Skoglund
Bonoff	Hottinger	Limmer	Pappas	Solon
Chaudhary	Johnson, D.E.	Lourey	Pogemiller	Sparks
Clark	Johnson, D.J.	Marko	Ranum	Stumpf
Cohen	Jungbauer	Marty	Reiter	Tomassoni
Day	Kelley	McGinn	Rest	Vickerman
Dibble	Kierlin	Metzen	Robling	Wergin
Dille	Kiscaden	Michel	Ruud	Wiger

So the bill passed and its title was agreed to.

SPECIAL ORDER

H.F. No. 3302: A bill for an act relating to local government; modifying municipal and county planning and zoning provisions; providing standards for preliminary plat approval in a proposed development; amending Minnesota Statutes 2004, sections 394.25, subdivision 7; 462.358, subdivision 3b.

Senator Vickerman moved to amend H.F. No. 3302 as follows:

Page 1, after line 6, insert:

"ARTICLE 1

MUNICIPAL AND COUNTY PLANNING AND ZONING PROVISIONS

Section 1. Minnesota Statutes 2004, section 204B.14, subdivision 5, is amended to read:

Subd. 5. **Precinct boundaries; description; maps.** ~~When~~ If a precinct boundary has been changed, ~~or an annexation has occurred affecting a precinct boundary,~~ the municipal clerk shall immediately notify the county auditor and secretary of state. ~~The municipal clerk shall file a corrected base map with the secretary of state and county auditor within 30 days after the boundary change was made or, in the case of an annexation, the later of: (1) 30 days after the approval of the annexation order; or (2) the effective date of the annexation order.~~ Upon request, the ~~secretary of state~~ county auditor shall provide a base map and precinct finder to the municipal clerk. ~~The secretary of state shall update the precinct boundary database, prepare a corrected precinct map, and provide the corrected precinct map to the county auditor and the municipal clerk who shall make them available for public inspection.~~ The municipal clerk shall prepare a corrected precinct map and provide the corrected map to the county auditor, who shall correct the precinct finder in the statewide voter registration system and make the corrected map and precinct finder available for public inspection, and to the secretary of state, who shall update the precinct boundary database. The county auditor shall prepare and file precinct boundary maps for precincts in unorganized territories in the same manner as provided for precincts in municipalities. For every election held in the municipality the election judges shall be furnished precinct maps as provided in section 201.061, subdivision 6. If a municipality changes the boundary of an election precinct, or if an annexation affecting a precinct boundary occurs, the county auditor shall notify each school district with territory affected by the boundary change at least 30 days before the effective date of the change."

Page 4, after line 10, insert:

"ARTICLE 2**MUNICIPAL BOUNDARY ADJUSTMENT****Section 1. MUNICIPAL BOUNDARY ADJUSTMENT ADVISORY TASK FORCE ESTABLISHED.**

Subdivision 1. **Membership.** An advisory task force on municipal boundary adjustments is established to study and make recommendations on what, if any, changes should be made to the law governing municipal boundary adjustments. The task force shall develop recommendations regarding best practices annexation training for city and township officials to better communicate and jointly plan potential annexations. The task force is comprised of the following members:

(1) two members of the senate, one appointed by the majority leader and one appointed by the minority leader;

(2) two members of the house of representatives, one appointed by the speaker of the house and one appointed by the minority leader;

(3) three representatives of city interests, appointed by the League of Minnesota Cities in consultation with the Association of Metropolitan Municipalities, the Coalition of Greater Minnesota Cities, and the Minnesota Association of Small Cities;

(4) three representatives of township interests, appointed by the Minnesota Association of Townships; and

(5) one person appointed jointly by the senate majority leader and the speaker of the house of representatives to serve as chair of the task force, selected based on knowledge and experience in municipal boundary adjustment issues and who could serve without bias towards either side of the issue of annexation.

All appointing authorities shall provide for balance of geographic areas of the state and city and town interests.

Subd. 2. **Report by January 2007.** The task force shall report its recommendations to the chairs and members of the house of representatives and senate committees with jurisdiction over municipal boundary adjustments by January 1, 2007. The task force shall also provide a copy of its recommendations to the Legislative Reference Library.

Subd. 3. **Funds available.** Any funds remaining in the committee budgets for the house local government committee or the senate state and local government operations committee as of the 2006 adjournment of the legislature will be available to pay for the administrative expenses of the task force, including per diems and expenses of members and the services of a facilitator from the management analysis division of the Department of Administration.

Sec. 2. Minnesota Statutes 2004, section 414.01, subdivision 1a, is amended to read:

Subd. 1a. **Legislative findings.** The legislature finds that:

(1) sound urban development and preservation of agricultural land and open spaces through land use planning is essential to the continued economic growth of this state;

(2) municipal government most efficiently provides governmental services in areas intensively developed for residential, commercial, industrial, and governmental purposes; and township government most efficiently provides governmental services in areas used or developed for agricultural, open space, and rural residential purposes;

(3) the public interest requires that municipalities be formed when there exists or will likely exist the necessary resources to provide for their economical and efficient operation;

(4) annexation to existing municipalities of unincorporated areas unable to supply municipal services should be facilitated; and

~~(5) the consolidation of municipalities should be encouraged. long-range joint powers planning or other cooperative efforts among counties, cities, and towns should be encouraged.~~

Sec. 3. Minnesota Statutes 2004, section 414.02, is amended by adding a subdivision to read:

Subd. 1a. Notice of intent to incorporate. At least 30 days before submitting to the director the petition or resolution under this section, the township must serve the clerk of each municipality and each township that is contiguous to the township by certified mail a notice of the township's intent to incorporate.

Sec. 4. Minnesota Statutes 2004, section 414.031, is amended by adding a subdivision to read:

Subd. 1a. Notice of intent to annex. At least 30 days before submitting to the director a petition or resolution under this section, the municipality must serve the township clerk of the affected township by certified mail a notice of the municipality's intent to annex property within the township. The notice must clearly identify the boundaries of the area proposed to be annexed.

Sec. 5. Minnesota Statutes 2004, section 414.031, subdivision 4, is amended to read:

Subd. 4. Relevant factors, order. (a) In arriving at a decision, the director shall consider the following sources and factors:

(1) recordings and public documents from joint informational meetings under section 414.0333 relevant to other factors listed in this subdivision;

~~(1)~~ (2) present population and number of households, past population and projected population growth of the annexing municipality and subject area and adjacent units of local government;

~~(2)~~ (3) quantity of land within the subject area and adjacent units of local government; and natural terrain including recognizable physical features, general topography, major watersheds, soil conditions and such natural features as rivers, lakes and major bluffs;

~~(3)~~ (4) degree of contiguity of the boundaries between the annexing municipality and the subject area;

~~(4)~~ (5) present pattern of physical development, planning, and intended land uses in the subject area and the annexing municipality including residential, industrial, commercial, agricultural and institutional land uses and the impact of the proposed action on those land uses;

~~(5)~~ (6) the present transportation network and potential transportation issues, including proposed highway development;

~~(6)~~ (7) land use controls and planning presently being utilized in the annexing municipality and the subject area, including comprehensive plans for development in the area and plans and policies of the Metropolitan Council, and whether there are inconsistencies between proposed development and existing land use controls and the reasons therefore;

~~(7)~~ (8) existing levels of governmental services being provided in the annexing municipality and the subject area, including water and sewer service, fire rating and protection, law enforcement, street improvements and maintenance, administrative services, and recreational facilities and the impact of the proposed action on the delivery of said services;

(9) the implementation of previous annexation agreements and orders;

~~(8)~~ (10) existing or potential environmental problems and whether the proposed action is likely to improve or resolve these problems;

~~(9)~~ (11) plans and programs by the annexing municipality for providing needed and enhanced

governmental services to the subject area in a cost-effective and feasible manner within a reasonable time from the date of the annexation;

~~(10)~~ ~~(12)~~ an analysis of the fiscal impact on the annexing municipality, the subject area, and adjacent units of local government, including net tax capacity and the present bonded indebtedness, and the local tax rates of the county, school district, and township;

~~(11)~~ ~~(13)~~ relationship and effect of the proposed action on affected and adjacent school districts and communities;

~~(12)~~ ~~(14)~~ adequacy of town government to deliver services to the subject area;

~~(13)~~ ~~(15)~~ analysis of whether necessary governmental services can best be provided through the proposed action or another type of boundary adjustment; and

~~(14)~~ ~~(16)~~ if only a part of a township is annexed, the ability of the remainder of the township to continue or the feasibility of it being incorporated separately or being annexed to another municipality.

(b) Based upon the factors, the director may order the annexation on finding:

(1) that the subject area is now, or is about to become, urban or suburban in character;

(2) that municipal government in the area proposed for annexation is required to protect the public health, safety, and welfare; or

(3) that the annexation would be in the best interest of the subject area.

(c) If only a part of a township is to be annexed, the director shall consider whether the remainder of the township can continue to carry on the functions of government without undue hardship.

(d) The director shall deny the annexation on finding that the increase in revenues for the annexing municipality bears no reasonable relation to the monetary value of benefits conferred upon the annexed area.

(e) The director may deny the annexation on finding:

(1) that annexation of all or a part of the property to an adjacent municipality would better serve the interests of the residents of the property; or

(2) that the remainder of the township would suffer undue hardship.

(f) The director may alter the boundaries of the area to be annexed by increasing or decreasing the area so as to include only that property which is now or is about to become urban or suburban in character or to add property of such character abutting the area proposed for annexation in order to preserve or improve the symmetry of the area, or to exclude property that may better be served by another unit of government.

(g) The director may also alter the boundaries of the proposed annexation so as to follow visible, clearly recognizable physical features.

(h) If the director determines that part of the area would be better served by another municipality or township, the director may initiate and approve annexation by conducting further hearings and issuing orders pursuant to subdivisions 3 and 4.

(i) In all cases, the director shall set forth the factors which are the basis for the decision.

Sec. 6. Minnesota Statutes 2004, section 414.0325, subdivision 1, is amended to read:

Subdivision 1. **Initiating the proceeding.** (a) One or more townships and one or more municipalities, by joint resolution, may designate an unincorporated area as in need of orderly

annexation. One or more municipalities, by joint resolution with the county, may designate an unincorporated area in which there is no organized township government as in need of orderly annexation.

(b) The joint resolution will confer jurisdiction on the director over annexations in the designated area and over the various provisions in said agreement by submission of said joint resolution to the director.

(c) The resolution shall include a description of the designated area and the reasons for designation.

(d) Thereafter, an annexation of any part of the designated area may be initiated by:

- (1) submitting to the director a resolution of any signatory to the joint resolution; or
- (2) the director.

(e) Whenever a state agency, other than the pollution control agency, orders a municipality to extend a municipal service to an area, the order confers jurisdiction on the director to consider designation of the area for orderly annexation.

(f) If a joint resolution designates an area as in need of orderly annexation and states that no alteration of its stated boundaries is appropriate, the director may review and comment, but may not alter the boundaries.

(g) If a joint resolution designates an area as in need of orderly annexation, provides for the conditions for its annexation, and states that no consideration by the director is necessary, the director may review and comment, but shall, within 30 days, order the annexation in accordance with the terms of the resolution.

Sec. 7. Minnesota Statutes 2004, section 414.0325, is amended by adding a subdivision to read:

Subd. 1b. **Notice of intent to designate an area.** At least ten days before the municipality or township adopts an orderly annexation agreement, a notice of the intent to include property in an orderly annexation area must be published in a newspaper of general circulation in both the township and municipality. The notice must clearly identify the boundaries of the area proposed to be included in the orderly annexation agreement and the date, time, and place of the public informational meeting to be held as provided in section 414.0333. The cost of providing notice must be equally divided between the municipality and the township, unless otherwise agreed upon by the municipality and the township.

Sec. 8. Minnesota Statutes 2004, section 414.033, subdivision 2, is amended to read:

Subd. 2. **Conditions.** A municipal council may by ordinance declare land annexed to the municipality and any such land is deemed to be urban or suburban in character or about to become so if:

- (1) the land is owned by the municipality;
- (2) the land is completely surrounded by land within the municipal limits;

(3) the land abuts the municipality and the area to be annexed is ~~60~~ 120 acres or less, and the area to be annexed is not presently served by public sewer wastewater facilities or public sewer wastewater facilities are not otherwise available, and the municipality receives a petition for annexation from all the property owners of the land, Except as provided for by an orderly annexation agreement, the director must not accept a petition from a property owner for more than one annexation per year of property contiguous to the parcel previously annexed under this clause;
or

- (4) the land has been approved after August 1, 1995, by a preliminary plat or final plat for

subdivision to provide residential lots that average 21,780 square feet or less in area and the land is located within two miles of the municipal limits.

EFFECTIVE DATE. This section is effective until July 1, 2007.

Sec. 9. Minnesota Statutes 2004, section 414.033, subdivision 12, is amended to read:

Subd. 12. **Property taxes.** When a municipality annexes land under subdivision 2, clause (2), (3), or (4), property taxes payable on the annexed land shall continue to be paid to the affected town or towns for the year in which the annexation becomes effective. If the annexation becomes effective on or before August 1 of a levy year, the municipality may levy on the annexed area beginning with that same levy year. If the annexation becomes effective after August 1 of a levy year, the town may continue to levy on the annexed area for that levy year, and the municipality may not levy on the annexed area until the following levy year. ~~In the first year following the year when the municipality could first levy on the annexed area under this subdivision, and thereafter, property taxes on the annexed land shall be paid to the municipality. In the first year following the year the municipality could first levy on the annexed area, the municipality shall make a cash payment to the affected town or towns in an amount equal to 90 percent of the property taxes distributed to the town in regard to the annexed area in the last year the property taxes from the annexed area were payable to the town; in the second year, an amount equal to 70 percent; in the third year, an amount equal to 50 percent; in the fourth year, an amount equal to 30 percent; and in the fifth year, an amount equal to ten percent. The municipality and the affected township may agree to a different payment.~~

Sec. 10. **[414.0333] JOINT INFORMATIONAL MEETING.**

There must be a joint informational meeting of the municipal council of the annexing municipality and the town board of supervisors of the township containing the land proposed to be annexed or included in annexation proceedings under section 414.031. For an annexation under section 414.031, the joint information meeting must be held after the final mediation meeting or the final meeting held pursuant to section 414.01, subdivision 16, if any, and before the hearing on the matter is held. If no mediation meetings are held, the joint informational meeting must be held after the initiating documents have been filed and before the hearing on the matter. The time, date, and place of the public informational meeting must be determined jointly by the chair of the town board of supervisors and the mayor of the annexing municipality. The chair of the town board of supervisors and the mayor must serve as the cochairs for the informational meeting. Notice of the time, date, place, and purpose of the informational meeting must be posted by the town clerk in the township's designated place for posting notices, and by the municipal clerk in the municipality's designated place for posting notices. A joint notice shall be published in a newspaper of general circulation within both the municipality and the township. All notice required by this section must be provided at least ten days before the date for the public informational meeting. At the public informational meeting, all persons appearing must have an opportunity to be heard. The municipal council, the town board of supervisors, and any resident or affected property owner may be represented by counsel and introduce evidence including, but not limited to, expert testimony into the record of the informational meeting. The clerk of the township must record minutes of the proceedings of the informational meeting and the municipal clerk must make an audio recording of the informational meeting. The township must provide the director and the municipality with a copy of the printed minutes and the municipality must provide the director and the township with a copy of the audio recording. The record of the informational meeting for a proceeding under section 414.031 is admissible in any proceeding under this chapter and shall be taken into consideration by the director or the director's designee.

Sec. 11. Minnesota Statutes 2004, section 414.036, is amended to read:

414.036 CITY REIMBURSEMENT TO TOWN TO ANNEX TAXABLE PROPERTY.

Unless otherwise agreed to by the annexing municipality and the affected town, when an order or other approval under section 414.0325 this chapter annexes part of a town to a municipality, the

~~orderly annexation agreement between the town and municipality may order or other approval must~~ provide a reimbursement from the municipality to the town for all or part of the taxable property annexed as part of the order. The reimbursement shall be completed in substantially equal payments over not less than two nor more than ~~six~~ eight years from the time of annexation. The municipality must reimburse the township for all special assessments assigned by the township to the annexed property, and any portion of debt incurred by the town prior to the annexation and attributable to the property to be annexed but for which no special assessments are outstanding, in substantially equal payments over a period of not less than two or no more than eight years.

Sec. 12. Minnesota Statutes 2004, section 414.061, subdivision 5, is amended to read:

Subd. 5. **Property owners may initiate.** Property owners may initiate proceedings for the concurrent detachment of their property from one municipality and its annexation to an adjacent municipality by a petition signed by all of them that they submit to the director accompanied by a resolution of the city council of ~~at least one~~ each of the affected municipalities. The director shall conduct hearings and issue an order pursuant to section 414.09. In arriving at a decision, the director shall consider the factors in section 414.02, subdivision 3. The director shall order the proposed action on finding that it will be for the best interests of the municipalities and the property owner. In all cases, the director shall set forth the factors which are the basis for the decision.

Sec. 13. **EFFECTIVE DATE.**

Section 8 is effective until July 1, 2007."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator LeClair moved to amend H.F. No. 3302 as follows:

Page 3, after line 5, insert:

"Sec. 2. Minnesota Statutes 2004, section 394.36, subdivision 1, is amended to read:

Subdivision 1. **Continuous or it ends.** ~~Except as provided in subdivision 2 or 3, any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an official control hereunder under this chapter, may be continued, except as regulated, terminated or acquired by the board as provided in subdivisions 2 or 3, although such use or occupation does not conform to the provisions thereof, but including through repair, replacement, restoration, maintenance, or improvement, but not including expansion. If such nonconformity or occupancy is discontinued for a period of more than one year, or any nonconforming building or structure is destroyed by fire or other peril to the extent of 50 percent of its market value, and no building permit has been applied for within 180 days of when the property is damaged, any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy. If a nonconforming building or structure is destroyed by fire or other peril to the extent of 50 percent of its market value, the board may impose reasonable conditions upon a building permit in order to mitigate any newly created impact on adjacent property.~~

EFFECTIVE DATE. This section is effective retroactively from August 1, 2004.

Sec. 3. Minnesota Statutes 2004, section 394.36, is amended by adding a subdivision to read:

Subd. 1b. **Designated floodplains.** Notwithstanding subdivision 1, a county shall regulate the repair, replacement, maintenance, improvement, or expansion of nonconforming uses and structures in floodplain areas to the extent necessary to maintain eligibility in the National Flood Insurance Program and not increase flood damage potential or increase the degree of obstruction to flood flows in the floodway.

EFFECTIVE DATE. This section is effective retroactively from August 1, 2004."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator McGinn moved to amend H.F. No. 3302 as follows:

Page 4, after line 10, insert:

"Sec. 3. **[501B.561] CERTIFICATE OF CUSTODIANSHIP.**

Subdivision 1. **Contents of certificate.** (a) A custodian or the owner of property held in a custodianship, at any time after execution or creation of a custodianship instrument, may execute a certificate of custodianship that sets forth less than all of the provisions of the custodial instrument and any amendments to the instrument. The certificate of custodianship may be used for purposes of selling, conveying, pledging, mortgaging, leasing, or transferring title to any interest in real or personal property. The certificate of custodianship must include:

(1) the name of the custodianship, if one is given;

(2) the date of the custodianship instrument;

(3) the name of each owner of property held in the custodianship;

(4) the name of each original custodian;

(5) the name and address of each custodian empowered to act under the custodianship instrument at the time of execution of the certificate;

(6) the following statement: "The custodians are authorized by the instrument to sell, convey, pledge, mortgage, lease, or transfer title to any interest in real or personal property, except as limited by the following: (if none, so indicate)";

(7) any other custodianship provisions the custodians or owners of property held in the custodianship include; and

(8) a statement as to whether the custodianship instrument has terminated or been revoked.

(b) The certificate of custodianship must be upon the representation of the custodians or the owners of property held in the custodianship that the statements contained in the certificate of custodianship are true and correct and that there are no other provisions in the custodianship instrument or amendments to it that limit the powers of the custodianship to sell, convey, pledge, mortgage, lease, or transfer title to interests in real or personal property. The signature of the custodians or the owners of property held in the custodianship must be under oath before a notary public or other official authorized to administer oaths.

Subd. 2. **Effect.** A certificate of custodianship executed under subdivision 1 may be recorded in the office of the county recorder for any county, or filed with the office of the registrar of titles with respect to registered land described in the certificate of custodianship or any attachment to it. When it is recorded or filed in a county where real property is situated, or in the case of personal property, when it is presented to a third party, the certificate of custodianship serves to document the existence of the custodianship, the identity of the custodians, the powers of the custodians and any limitations on those powers, and other matters the certificate of custodianship sets out, as though the full custodianship instrument had been recorded, filed, or presented. Until amended or revoked under subdivision 3, or until the full custodianship instrument is recorded, filed, or presented, a certificate of custodianship is prima facie proof as to the matters contained in it, and any party may rely upon the continued effectiveness of the certificate.

Subd. 3. **Amendment or revocation.** (a) Amendment or revocation of a certificate of custodianship may be made only by a written instrument executed by a custodian or an owner of property held in the custodianship. Amendment or revocation of a certificate of custodianship is not effective as to a party unless that party has actual notice of the amendment or revocation.

(b) For purposes of this subdivision, "actual notice" means that a written instrument of amendment or revocation has been received by the party or, in the case of real property, that either a written instrument of amendment or revocation has been received by the party or that a written instrument of amendment or revocation containing the legal description of the real property has been recorded in the office of the county recorder or filed in the office of the registrar of titles where the real property is situated.

Subd. 4. **Application.** (a) Subdivisions 1 to 3 are effective August 1, 2006, but apply to custodianship instruments whenever created or executed.

(b) Subdivisions 1 to 3 apply only to custodianships established under a federal law or under a statute of this or any other state. Subdivisions 1 to 3 do not apply to custodianships governed by chapter 527 or by the similar laws of another state.

Sec. 4. [501B.571] AFFIDAVIT OF CUSTODIAN IN REAL PROPERTY TRANSACTIONS.

Subdivision 1. **Form of affidavit for custodianship.** An affidavit of a custodian or of custodians of a custodianship in support of a real property transaction may be substantially in the following form:

STATE OF
MINNESOTA)

AFFIDAVIT OF CUSTODIAN

) ss.

COUNTY OF)

....., being first duly sworn on oath says that:

1. Affiant is the custodian (one of the custodians) named in that certain Certificate of Custodianship (or Custodianship Instrument)

filed for record,, as Document No. (or in Book of, Page) in the Office of the (County Recorder/Registrar of Titles) of County, Minnesota,

OR

to which this Affidavit is attached,

executed by Affiant or another custodian or by the owner of the property that is held in the custodianship described in the Certificate of Custodianship (or set forth in the Custodianship Instrument), and which relates to real property in County, Minnesota, legally described as follows:

.....
.....

(If more space is needed, continue on back or on attachment.)

2. The name(s) and address(es) of the custodian(s) empowered by the Custodian Instrument to act at the time of the execution of this Affidavit are as follows:

.....
.....

3. The custodian(s) who have executed that certain instrument relating to the real property described above between, as custodian(s) and, dated, ..:

(i) are empowered by the provisions of the custodianship to sell, convey, pledge, mortgage, lease, or transfer title to any interest in real property held in custodianship; and

(ii) are the requisite number of custodians required by the provisions of the custodianship to execute and deliver such an instrument.

4. The custodianship has not terminated and has not been revoked.

- OR -

4. The custodianship has terminated (or has been revoked). The execution and delivery of the instrument described in paragraph 3 has been made pursuant to the provisions of the custodianship.

5. There has been no amendment to the custodianship which limits the power of custodian(s) to execute and deliver the instrument described in paragraph 3.

6. The custodianship is not supervised by any court.

- OR -

6. The custodianship is supervised by the Court of County, All necessary approval has been obtained from the court for the custodian(s) to execute and deliver the instrument described in paragraph 3.

7. Affiant does not have actual knowledge of any facts indicating that the custodianship is invalid.

Subscribed and sworn to before me
this day of,

.....
, Affiant

Notary Stamp or Seal

.....
Signature of Notary Public or
Other Official

This instrument was drafted by:

.....
.....

Subd. 2. **Effect.** An affidavit by the custodian or custodians under subdivision 1 is proof that:

(1) the custodianship described in the affidavit is a valid custodianship;

(2) either the custodianship has not terminated or been revoked or, if the custodianship has terminated or been revoked, the conveyance described in the affidavit is made pursuant to the provisions of the custodianship;

(3) the powers granted the custodian or custodians extend to the real property described in the affidavit or attachment to the affidavit;

(4) no amendment to the custodianship has been made limiting the power of the custodian or custodians to sell, convey, pledge, mortgage, lease, or transfer title to the real property described in the affidavit or attachment to the affidavit, if any;

(5) the requisite number of custodians have executed and delivered the instrument of conveyance described in the affidavit; and

(6) any necessary court approval of the transaction has been obtained.

The proof is conclusive as to any party relying on the affidavit, except a party dealing directly with the custodian or custodians who has actual knowledge of facts to the contrary.

Subd. 3. **Recording or filing.** An Affidavit of Custodian or Custodians under subdivision 1 may be recorded in the office of the county recorder for any county, or filed with the office of the registrar of titles for any county with respect to registered land described in the affidavit, or in the Certificate of Custodianship or Custodianship Instrument referred to in the affidavit, and may be recorded or filed as a separate document or combined with or attached to an original or certified copy of a Certificate of Custodianship or Custodianship Instrument, and recorded or filed as one document.

Subd. 4. **Application.** (a) Subdivisions 1 to 3 are effective August 1, 2006, but apply to custodianship instruments whenever created or executed.

(b) Subdivisions 1 to 3 apply only to custodianships established under a federal law or under a statute of this or any other state. Subdivisions 1 to 3 do not apply to custodianships governed by chapter 527 or by the similar laws of another state."

Amend the title accordingly

Senator Betzold questioned whether the amendment was germane.

The President ruled that the amendment was not germane.

RECONSIDERATION

Having voted on the prevailing side, Senator Higgins moved that the vote whereby the LeClair amendment to H.F. No. 3302 was adopted on May 15, 2006, be now reconsidered. The motion prevailed. So the vote was reconsidered.

Senator Marty moved to amend the LeClair amendment to H.F. No. 3302 as follows:

Page 1, line 5, before "nonconformity" insert "seasonal recreational property"

Page 1, line 15, before "nonconforming" insert "seasonal recreational property"

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

The question recurred on the adoption of the LeClair amendment, as amended. The motion prevailed. So the amendment, as amended, was adopted.

H.F. No. 3302 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 65 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Clark	Gerlach	Kierlin	Limmer
Bachmann	Cohen	Hann	Kiscaden	Lourey
Bakk	Day	Higgins	Koch	Marko
Belanger	Dibble	Hottinger	Koering	Marty
Berglin	Dille	Johnson, D.E.	Kubly	McGinn
Betzold	Fischbach	Johnson, D.J.	Langseth	Metzen
Bonoff	Foley	Jungbauer	Larson	Michel
Chaudhary	Frederickson	Kelley	LeClair	Moua

Murphy	Pogemiller	Sams	Solon	Wiger
Neuville	Reiter	Saxhaug	Sparks	
Nienow	Rest	Scheid	Stumpf	
Olson	Robling	Senjem	Tomassoni	
Ortman	Rosen	Skoe	Vickerman	
Pappas	Ruud	Skoglund	Wergin	

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

MOTIONS AND RESOLUTIONS - CONTINUED

SUSPENSION OF RULES

Senator Johnson, D.E. moved that Joint Rule 2.06 be suspended as it relates to the Conference Committee Report on S.F. No 2750. The motion prevailed.

S.F. No. 2750 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 2750

A bill for an act relating to eminent domain; defining public use or purpose; prohibiting the use of eminent domain for economic development; requiring clear and convincing evidence for certain takings; providing for attorney fees and other additional elements of compensation; making other changes in the exercise of eminent domain; amending Minnesota Statutes 2004, sections 117.025; 117.036; 117.055; 117.075, subdivision 1, by adding a subdivision; 117.085; 117.51; 117.52, subdivision 1, by adding a subdivision; 163.12, subdivisions 1a, 1b; proposing coding for new law in Minnesota Statutes, chapter 117.

May 12, 2006

The Honorable James P. Metzen
President of the Senate

The Honorable Steve Sviggum
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 2750 report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S.F. No. 2750 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. **[117.012] PREEMPTION; PUBLIC USE OR PURPOSE.**

Subdivision 1. Preemption. Notwithstanding any other provision of law, including any charter provision, ordinance, statute, or special law, all condemning authorities, including home rule charter cities and all other political subdivisions of the state, must exercise the power of eminent domain in accordance with the provisions of this chapter, including all procedures, definitions, remedies, and limitations. Additional procedures, remedies, or limitations that do not deny or diminish the substantive and procedural rights and protections of owners under this chapter may be provided by other law, ordinance, or charter.

Subd. 2. Requirement of public use or public purpose. Eminent domain may only be used for a public use or public purpose.

Subd. 3. **Exceptions.** This chapter does not apply to the taking of property under laws relating to drainage or to town roads when those laws themselves expressly provide for the taking and specifically prescribe the procedure. The taking of property for a project undertaken by a watershed district under chapter 103D or for a project undertaken by a drainage authority under chapter 103E may be carried out under the procedure provided by those chapters.

Sec. 2. Minnesota Statutes 2004, section 117.025, is amended to read:

117.025 DEFINITIONS.

Subdivision 1. **Words, terms, and phrases.** Unless the language or context clearly indicates that a different meaning is intended, For the purposes of this chapter and any other general or special law authorizing the exercise of the power of eminent domain, the words, terms, and phrases defined in this section have the meanings given them.

Subd. 2. **Taking.** "Taking" and all words and phrases of like import include every interference, under the right of eminent domain, with the possession, enjoyment, or value of private property.

Subd. 3. **Owner.** "Owner" includes all persons interested in such with any interest in the property subject to a taking, whether as proprietors, tenants, life estate holders, encumbrancers, beneficial interest holders, or otherwise.

Subd. 4. **Condemning authority.** "Condemning authority" means a person or entity with the power of eminent domain.

Subd. 5. **Abandoned property.** "Abandoned property" means property that: (1) has been substantially unoccupied or unused for any commercial or residential purpose for at least one year by a person with a legal or equitable right to occupy the property; (2) has not been maintained; and (3) for which taxes have not been paid for at least two previous years.

Subd. 6. **Blighted area.** "Blighted area" means an area:

(1) that is in urban use; and

(2) where more than 50 percent of the buildings are structurally substandard.

Subd. 7. **Structurally substandard.** "Structurally substandard" means a building:

(1) that was inspected by the appropriate local government and cited for one or more enforceable housing, maintenance, or building code violations;

(2) in which the cited building code violations involve one or more of the following:

(i) a roof and roof framing element;

(ii) support walls, beams, and headers;

(iii) foundation, footings, and subgrade conditions;

(iv) light and ventilation;

(v) fire protection, including egress;

(vi) internal utilities, including electricity, gas, and water;

(vii) flooring and flooring elements; or

(viii) walls, insulation, and exterior envelope;

(3) in which the cited housing, maintenance, or building code violations have not been remedied after two notices to cure the noncompliance; and

(4) has uncured housing, maintenance, and building code violations, satisfaction of which

would cost more than 50 percent of the assessor's taxable market value for the building, excluding land value, as determined under section 273.11 for property taxes payable in the year in which the condemnation is commenced.

A local government is authorized to seek from a judge or magistrate an administrative warrant to gain access to inspect a specific building in a proposed development or redevelopment area upon showing of probable cause that a specific code violation has occurred and that the violation has not been cured, and that the owner has denied the local government access to the property. Items of evidence that may support a conclusion of probable cause may include recent fire or police inspections, housing inspection, exterior evidence of deterioration, or other similar reliable evidence of deterioration in the specific building.

Subd. 8. **Environmentally contaminated area.** "Environmentally contaminated area" means an area:

(1) in which more than 50 percent of the parcels contain any substance defined, regulated, or listed as a hazardous substance, hazardous material, hazardous waste, toxic waste, pollutant, contaminant, or toxic substance, or identified as hazardous to human health or the environment under state or federal law or regulation; and

(2) for which the estimated costs of investigation, monitoring and testing, and remedial action or removal, as defined in section 115B.02, subdivisions 16 and 17, respectively, including any state costs of remedial actions, exceed 100 percent of the assessor's estimated market value for the contaminated parcel, as determined under section 273.11, for property taxes payable in the year in which the condemnation commenced, or for which a court of competent jurisdiction has issued an order under law or regulations adopted by Minnesota or the United States, that clean up or remediation of a contaminated site occur and the property owner has failed to comply with the court's order within a reasonable time.

Subd. 9. **Public nuisance.** "Public nuisance" means a public nuisance under section 609.74.

Subd. 10. **Public service corporation.** "Public service corporation" means a utility, as defined by section 116C.52, subdivision 10; gas, electric, telephone, or cable communications company; cooperative association; natural gas pipeline company; crude oil, or petroleum products pipeline company; municipal utility; municipality when operating its municipally owned utilities; joint venture created pursuant to section 452.25 or 452.26; or municipal power or gas agency. Public service corporation also means a municipality or public corporation when operating an airport under chapter 360 or 473, a common carrier, a watershed district, or a drainage authority. Public service corporation also means an entity operating a regional distribution center within an international economic development zone designated under section 469.322.

Subd. 11. **Public use; public purpose.** (a) "Public use" or "public purpose" means, exclusively:

(1) the possession, occupation, ownership, and enjoyment of the land by the general public, or by public agencies;

(2) the creation or functioning of a public service corporation; or

(3) mitigation of a blighted area, remediation of an environmentally contaminated area, reduction of abandoned property, or removal of a public nuisance.

(b) The public benefits of economic development, including an increase in tax base, tax revenues, employment, or general economic health, do not by themselves constitute a public use or public purpose.

Sec. 3. [117.027] CONDEMNATION FOR BLIGHT MITIGATION AND CONTAMINATION REMEDIATION.

Subdivision 1. **Buildings that are not structurally substandard in areas of blight mitigation; feasible alternatives.** In taking property to mitigate blight, a condemning authority must not take

buildings that are not structurally substandard unless there is no feasible alternative to the taking of the parcels on which the buildings are located in order to remediate the blight and all possible steps are taken to minimize the taking of buildings that are not structurally substandard.

Subd. 2. **Uncontaminated property in environmental contamination remediation areas; feasible alternatives.** In taking property to remediate environmental contamination, a condemning authority must not take uncontaminated parcels in the area unless there is no feasible alternative to the taking of the uncontaminated parcels in order to complete remediation of the contaminated parcels and all possible steps are taken to minimize the taking of the uncontaminated parcels.

Subd. 3. **Contribution to condition by developer disallowed.** If a developer involved in the redevelopment of the project area contributed to the blight or environmental contamination within the project area, the condition contributed to by the developer must not be used in the determination of blight or environmental contamination.

Sec. 4. [117.031] ATTORNEY FEES.

(a) If the final judgment or award for damages, as determined at any level in the eminent domain process, is more than 40 percent greater than the last written offer of compensation made by the condemning authority prior to the filing of the petition, the court shall award the owner reasonable attorney fees, litigation expenses, appraisal fees, other experts fees, and other related costs in addition to other compensation and fees authorized by this chapter. If the final judgment or award is at least 20 percent, but not more than 40 percent, greater than the last written offer, the court may award reasonable attorney fees, expenses, and other costs and fees as provided in this paragraph. The final judgment or award of damages shall be determined as of the date of taking. No attorney fees shall be awarded under this paragraph if the final judgment or award of damages does not exceed \$25,000. For the purposes of this section, the "final judgment or award for damages" does not include any amount for loss of a going concern unless that was included in the last written offer by the condemning authority.

(b) In any case where the court determines that a taking is not for a public use or is unlawful, the court shall award the owner reasonable attorney fees and other related expenses, fees, and costs in addition to other compensation and fees authorized by this chapter.

Sec. 5. Minnesota Statutes 2004, section 117.036, is amended to read:

~~117.036 APPRAISAL AND NEGOTIATION REQUIREMENTS APPLICABLE TO ACQUISITION OF PROPERTY FOR TRANSPORTATION PURPOSES.~~

Subdivision 1. **Application.** This section applies to the acquisition of property for public highways, streets, roads, alleys, airports, mass transit facilities, or for other transportation facilities or purposes under this chapter.

Subd. 1a. **Definition of owner.** For the purposes of this section, "owner" means fee owner, contract purchaser, or business lessee who is entitled to condemnation compensation under a lease.

Subd. 2. **Appraisal.** (a) Before commencing an eminent domain proceeding under this chapter, the acquiring authority must obtain at least one appraisal for the property proposed to be acquired. In making the appraisal, the appraiser must confer with one or more of the owners of the property, if reasonably possible. ~~At least 20~~ Notwithstanding section 13.44, the acquiring authority must provide the owner with a copy of each appraisal the acquiring authority has obtained for the property at the time an offer is made, but no later than 60 days before presenting a petition under section 117.055, ~~the acquiring authority must provide the owner with a copy of the appraisal and inform the owner of the owner's~~ owner of the right to obtain an appraisal under this section. Upon request, the acquiring authority must make available to the owner all appraisals of the property. If the acquiring authority is considering both a full and partial taking of the property, the acquiring authority shall obtain and provide the owner with appraisals for both types of takings.

(b) The owner may obtain an appraisal by a qualified appraiser of the property proposed to be

acquired. The owner is entitled to reimbursement for the reasonable costs of the appraisal from the acquiring authority up to a maximum of \$1,500 ~~within 30 days after the~~ for single family and two-family residential property and minimum damage acquisitions and \$5,000 for other types of property, provided that the owner submits to the acquiring authority the information necessary for reimbursement, ~~provided that the owner does so within 60 days after the owner receives the appraisal from the authority under paragraph (a)~~ including a copy of the owner's appraisal, at least five days before a condemnation commissioners' hearing. For purposes of this paragraph, a "minimum damage acquisition" means an interest in property that a qualified person with appraisal knowledge indicates can be acquired for a cost of \$10,000 or less.

(c) The acquiring authority must pay the reimbursement to the owner within 30 days after receiving a copy of the appraisal and the reimbursement information. Upon agreement between the acquiring authority and the owner, the acquiring authority may pay the reimbursement directly to the appraiser.

Subd. 3. **Negotiation.** In addition to the appraisal requirements under subdivision 2, before commencing an eminent domain proceeding, the acquiring authority must make a good faith attempt to negotiate personally with the owner of the property in order to acquire the property by direct purchase instead of the use of eminent domain proceedings. In making this negotiation, the acquiring authority must consider the appraisals in its possession, including any appraisal obtained and furnished by the owner if available, and other information that may be relevant to a determination of damages under this chapter. If the acquiring authority is considering both a full and partial taking of the property, the acquiring authority must make a good-faith attempt to negotiate with respect to both types of takings.

Subd. 4. **Use of appraisal at commissioners' hearing.** An appraisal must not be used or considered in a condemnation commissioners' hearing, nor may the appraiser who prepared the appraisal testify, unless a copy of the appraiser's written report is provided to the opposing party at least five days before the hearing.

Subd. 5. **Documentation of business loss.** Documentation related to a loss of going concern claim made under section 117.186, must not be used or considered in a condemnation commissioners' hearing unless the documentation is provided to the opposing party at least 14 days before the hearing.

Sec. 6. **[117.0412] LOCAL GOVERNMENT PUBLIC HEARING REQUIREMENTS.**

Subdivision 1. **Definitions.** For the purposes of this section:

(1) "local government" means the elected governing body of a statutory or home rule charter city, county, or township; and

(2) "local government agency" means a subdivision, agency, authority, or other entity created by or whose members are appointed by the local government, including a port authority, economic development authority, housing and redevelopment authority, or other similar entity established under law.

Subd. 2. **Public hearing; vote by local government governing body.** (a) If the taking is for the mitigation of a blighted area, remediation of an environmentally contaminated area, reducing abandoned property, or removing a public nuisance, a public hearing must be held before a local government or local government agency commences an eminent domain proceeding under section 117.055. The local government must notify each owner of property that may be acquired in writing by certified mail of the public hearing on the proposed taking, post the public hearing information on the local government's Web site, if any, and publish notice of the public hearing in a newspaper of general circulation in the local government's jurisdiction. Notice must be provided at least 30 days but not more than 60 days before the hearing.

(b) Any interested person must be allowed reasonable time to present relevant testimony at the public hearing. The proceedings of the hearing must be recorded and available to the public for

review and comment at reasonable times and a reasonable place. At the next regular meeting of the local government that is at least 30 days after the public hearing, the local government must vote on the question of whether to authorize the local government or local government agency to use eminent domain to acquire the property.

Subd. 3. **Resolution.** If the taking is for the mitigation of a blighted area, remediation of an environmentally contaminated area, reducing abandoned property, or removing a public nuisance, then the resolution of a local government or local government agency authorizing the use of eminent domain must:

(1) identify and describe the public costs and benefits that are known or expected to result from the program or project for which the property interest is proposed to be acquired; and

(2) address how the acquisition of the property interest serves one or more identified public uses or public purposes and why the acquisition of the property is needed to accomplish those public uses or public purposes.

Sec. 7. Minnesota Statutes 2004, section 117.055, is amended to read:

117.055 PETITION AND NOTICE.

Subdivision 1. **Petition.** In all cases a petition, describing the desired land, stating by whom and for what purposes it is proposed to be taken, and giving the names of all persons appearing of record or known to the petitioner to be the owners thereof shall be presented to the district court of the county in which the land is situated praying for the appointment of commissioners to appraise the damages which may be occasioned by such taking.

Subd. 2. **Notice.** (a) Notice of the objects of the petition and of the time and place of presenting the same shall be served at least 20 days before such time of presentation upon all persons named in the petition as owners as defined in section 117.025, subdivision 3, and upon all occupants of such land in the same manner as a summons in a civil action.

(b) The notice must state that:

(1) a party wishing to challenge the public use or public purpose, necessity, or authority for a taking must appear at the court hearing and state the objection or must appeal within 60 days of a court order; and

(2) a court order approving the public use or public purpose, necessity, and authority for the taking is final unless an appeal is brought within 60 days after service of the order on the party.

(c) If any such owner be not a resident of the state, or the owner's place of residence be unknown to the petitioner, upon the filing of an affidavit of the petitioner or the petitioner's agent or attorney, stating that the petitioner believes that such owner is not a resident of the state, and that the petitioner has mailed a copy of the notice to the owner at the owner's place of residence, or that after diligent inquiry the owner's place of residence cannot be ascertained by the affiant, then service may be made upon such owner by three weeks' published notice. If the state be an owner, the notice shall be served upon the attorney general. Any owner not served as herein provided shall not be bound by such proceeding except upon voluntarily appearing therein. Any owner shall be furnished a right-of-way map or plat of all that part of land to be taken upon written demand, provided that the petitioner shall have ten days from the receipt of the demand within which to furnish the same. Any plans or profiles which the petitioner has shall be made available to the owner for inspection.

Sec. 8. Minnesota Statutes 2004, section 117.075, subdivision 1, is amended to read:

Subdivision 1. **Hearing on taking; evidentiary standard.** (a) Upon proof being filed of the service of such notice, the court, at the time and place therein fixed or to which the hearing may be adjourned, shall hear all competent evidence offered for or against the granting of the petition, regulating the order of proof as it may deem best.

(b) If the taking is for the mitigation of a blighted area, remediation of an environmentally contaminated area, reducing abandoned property, or removing a public nuisance, then, notwithstanding any other provision of general or special law, a condemning authority must show the district court by preponderance of the evidence that the taking is necessary and for the designated public use.

(c) A court order approving the public use or public purpose, necessity, and authority for the taking is final unless an appeal is brought within 60 days after service of the order on the party.

Sec. 9. Minnesota Statutes 2004, section 117.085, is amended to read:

117.085 COMMISSIONERS, POWERS, DUTIES.

The commissioners, having been duly sworn and qualified according to law, shall meet as directed by the order of appointment and hear the allegations and proofs of all persons interested touching the matters to them committed. They may adjourn from time to time and from place to place within the county, giving oral notice to those present of the time and place of their next meeting. All testimony taken by them shall be given publicly, under oath, and in their presence. They shall view the premises, and any of them may subpoena witnesses, which shall be served as subpoenas in civil actions are served, and at the cost of the parties applying therefor. If deemed necessary, they may require the petitioner or owner to furnish for their use maps, plats, and other information which the petitioner or owner may have showing the nature, character, and extent of the proposed undertaking and the situation of lands desired therefor. In proper cases they may reserve to the owner a right-of-way or other privilege in or over the land taken, or attach reasonable conditions to such taking in addition to the damages given or they may make an alternative award, conditioned upon the granting or withholding of the right specified. Without unreasonable delay they shall make a separate assessment and award of the damages which in their judgment will result to each of the owners of the land by reason of such taking and report the same to the court. The commissioners shall not reduce the amount of the damages awarded because the land being taken is, at the time of the taking, valued under section 273.111, designated as an agricultural preserve under chapter 473H. The commissioners, in all such proceedings, may in their discretion allow and show separately in addition to the award of damages, reasonable appraisal fees not to exceed a total of ~~\$500~~ \$1,500 for single family and two-family residential property and minimum damage acquisitions and \$5,000 for other types of property, unless the appraised fee was reimbursed under section 117.036. Upon request of an owner the commissioners shall show in their report the amount of the award of damages which is to reimburse the owner and tenant or lessee for the value of the land taken, and the amount of the award of damages, if any, which is to reimburse the owner and tenant or lessee for damages to the remainder involved, whether or not described in the petition. The amounts awarded to each person shall also be shown separately. The commissioners shall, if requested by any party, make an express finding of the estimated cost of removal and remedial actions that will be necessary on the taken property because of existing environmental contamination.

Sec. 10. [117.184] COMPENSATION FOR REMOVAL OF LEGAL NONCONFORMING USE.

(a) Notwithstanding any law to the contrary, an ordinance or regulation of a political subdivision of the state or local zoning authority that requires the removal of a legal nonconforming use as a condition or prerequisite for the issuance of a permit, license, or other approval for any use, structure, development, or activity constitutes a taking and is prohibited without the payment of just compensation. This section does not apply if the permit, license, or other approval is requested for the construction of a building or structure that cannot be built without physically moving the nonconforming use.

(b) This section applies to an action of a political subdivision of the state or a local zoning authority occurring on or after the effective date of this act that requires removal of a legal nonconforming use as a condition or prerequisite for the issuance of a permit, license, or other

approval.

Sec. 11. **[117.186] COMPENSATION FOR LOSS OF GOING CONCERN.**

Subdivision 1. **Definitions.** For purposes of this section:

(1) "going concern" means the benefits that accrue to a business or trade as a result of its location, reputation for dependability, skill or quality, customer base, good will, or any other circumstances resulting in the probable retention of old or acquisition of new patronage; and

(2) "owner" has the meaning given in section 117.025 and includes a lessee who operates a business on real property that is the subject of an eminent domain proceeding.

Subd. 2. **Compensation for loss of going concern.** If a business or trade is destroyed by a taking, the owner shall be compensated for loss of going concern, unless the condemning authority establishes any of the following by a preponderance of the evidence:

(1) the loss is not caused by the taking of the property or the injury to the remainder;

(2) the loss can be reasonably prevented by relocating the business or trade in the same or a similar and reasonably suitable location as the property that was taken, or by taking steps and adopting procedures that a reasonably prudent person of a similar age and under similar conditions as the owner, would take and adopt in preserving the going concern of the business or trade; or

(3) compensation for the loss of going concern will be duplicated in the compensation otherwise awarded to the owner.

Subd. 3. **Procedure.** In all cases where an owner will seek compensation for loss of a going concern, the damages, if any, shall in the first instance be determined by the commissioners under section 117.105 as part of the compensation due to the owner. The owner shall notify the condemning authority of the owner's intent to claim compensation for loss of going concern within 60 days of the first hearing before the court, as provided in section 117.075. The commissioner's decision regarding any award for loss of going concern may be appealed by any party, in accordance with section 117.145.

Subd. 4. **Driveway access.** A business owner is entitled to reasonable compensation, not to exceed the three previous years' revenues minus the cost of goods sold, if the owner establishes that the actions of a government entity permanently eliminated 51 percent or greater of the driveway access into and out of a business and as a result of the loss of driveway access, revenue at the business was reduced by 51 percent or greater. Determination of whether the revenue at the business was reduced by 51 percent or greater must be based on a comparison of the average revenues minus the average costs of goods sold for the three years prior to commencement of the project, with the revenues minus the costs of goods sold for the year following completion of the project. A claim for compensation under this section must be made no later than one year after completion of the project which eliminated the driveway access. The installation of a median does not constitute elimination of driveway access.

Sec. 12. **[117.187] MINIMUM COMPENSATION.**

When an owner must relocate, the amount of damages payable, at a minimum, must be sufficient for an owner to purchase a comparable property in the community and not less than the condemning authority's payment or deposit under section 117.042, to the extent that the damages will not be duplicated in the compensation otherwise awarded to the owner of the property. For the purposes of this section, "owner" is defined as the person or entity that holds fee title to the property.

Sec. 13. **[117.188] LIMITATIONS.**

The condemning authority must not require the owner to accept as part of the compensation due any substitute or replacement property. The condemning authority must not require the owner to accept the return of property acquired or any portion of the property.

Sec. 14. **[117.189] PUBLIC SERVICE CORPORATION EXCEPTIONS.**

Sections 117.031; 117.036; 117.055, subdivision 2, paragraph (b); 117.186; 117.187; 117.188; and 117.52, subdivisions 1a and 4, do not apply to public service corporations. For purposes of an award of appraisal fees under section 117.085, the fees awarded may not exceed \$500 for all types of property.

Sec. 15. **[117.226] RIGHT OF FIRST REFUSAL.**

(a) Except as provided in sections 15.16, 160.85, 161.16, 161.20, 161.202, 161.23, 161.24, 161.241, 161.43, 161.46, and 222.63, if the governing body of the condemning authority determines that publicly owned property acquired under this chapter has not been used and is no longer needed for a public use, the authority must offer to sell the property to the owner from whom it was acquired, if the former owner can be located. The offer must be at the original price determined by the condemnation process or the current fair market value of the property, whichever is lower, except to the extent that a different value is required for a property interest obtained with federal highway funding under United States Code, title 23. Before offering surplus property to local governments or for public sale under section 16B.282 or 94.10, the commissioner of administration or natural resources must offer to sell the property to the former owner as provided in this section.

(b) If the former owner cannot be located after a due and diligent search or declines to repurchase the property, the attorney for the condemning authority shall prepare a certificate attesting to the same and record the certificate in the office of the county recorder or county registrar of titles, as appropriate, to evidence the termination of the right of first refusal. A recorded certificate to that effect is prima facie evidence that the right of first refusal has terminated.

Sec. 16. Minnesota Statutes 2004, section 117.51, is amended to read:

117.51 COOPERATION WITH FEDERAL AUTHORITIES.

In all acquisitions undertaken by any acquiring authority and in all voluntary rehabilitation carried out by a person pursuant to acquisition or as a consequence thereof, the acquiring authority shall cooperate to the fullest extent with federal departments and agencies, and it shall take all necessary action in order to insure, to the maximum extent possible, federal financial participation in any and all phases of acquisition, including the provision of relocation assistance, services, payments and benefits to displaced persons. ~~An acquiring authority may consider reimbursing up to \$50,000 in reestablishment expenses of a displaced business.~~

Sec. 17. Minnesota Statutes 2004, section 117.52, subdivision 1, is amended to read:

Subdivision 1. **Lack of federal funding.** In all acquisitions undertaken by any acquiring authority and in all voluntary rehabilitation carried out by a person pursuant to acquisition or as a consequence thereof, in which, due to the lack of federal financial participation, relocation assistance, services, payments and benefits under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, United States Code, title 42, sections 4601 to 4655, as amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987, Statutes at Large, volume 101, pages 246 to 256 (1987), are not available, the acquiring authority, as a cost of acquisition, shall provide all relocation assistance, services, payments and benefits required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987, and those regulations adopted pursuant thereto, and either (1) in effect as of ~~July 1, 1988~~ January 1, 2006, or (2) becoming effective after ~~July 1, 1988~~ January 1, 2006, following a public hearing and comment. Comments received by an acquiring authority within 30 days after the public hearing must be reviewed and a written response provided to the individual or organization who initiated the comment. The response and comments may be addressed in another public hearing by the acquiring authority before approval.

Sec. 18. Minnesota Statutes 2004, section 117.52, is amended by adding a subdivision to read:

Subd. 1a. **Reestablishment costs limit.** For purposes of relocation benefits paid by the acquiring authority in accordance with this section, the provisions of Code of Federal Regulations, title 49, section 24.304, with respect to reimbursement of reestablishment expenses for nonresidential moves are applicable, except that the acquiring authority shall reimburse the displaced business for expenses actually incurred up to a maximum of \$50,000.

Sec. 19. Minnesota Statutes 2004, section 117.52, is amended by adding a subdivision to read:

Subd. 4. **Relocation assistance amount determined by administrative law judge.** Notwithstanding any law or rule to the contrary, if a person entitled to relocation assistance under this section does not accept the acquiring authority's offer, the acquiring authority must initiate contested case proceedings under sections 14.57 to 14.66 for a determination of the relocation assistance that must be provided by the acquiring authority. The administrative law judge's determination of relocation assistance that the acquiring authority must provide constitutes a final decision in the case, as provided in section 14.62, subdivision 4. The acquiring authority must pay all costs of the proceedings. "Costs" is defined in section 15.471, subdivision 4, and also includes charges billed by the Office of Administrative Hearings for the proceedings.

Sec. 20. **REVISOR'S INSTRUCTION.**

The revisor shall change the phrase "right of eminent domain" where found in Minnesota Statutes and Minnesota Rules to "power of eminent domain."

Sec. 21. **REPEALER.**

Minnesota Statutes 2004, section 117.011, is repealed.

Sec. 22. **EFFECTIVE DATE.**

(a) This act is effective the day following final enactment and applies to actions commenced on or after that date. Section 15 applies to the disposition of property acquired by actions commenced on or after that date.

(b) Notwithstanding paragraph (a), the provisions of this act do not apply to actions commenced on or before February 1, 2008, for a project that satisfies one of the following conditions:

(1) with respect to property identified as intended to be acquired in a tax increment financing plan, as approved by the municipality by February 1, 2006, if the condemning authority has satisfied one or more of the following conditions in connection with the tax increment financing plan:

(i) the developer has acquired property by May 1, 2006, in reliance on the condemning authority's contractual obligation to condemn property; or

(ii) by May 1, 2006, the condemning authority has issued, sold, or entered into a binding agreement to issue or sell bonds or other obligations to finance the costs of the tax increment financing plan and has commenced the action within two years after the bonds were issued;

(2) the tax increment financing district was certified before February 1, 2006; a tax increment financing plan, adopted before February 1, 2006, identified the property as intended to be acquired; and the condemning authority has commenced the action within five years after certification of the district;

(3) creation of the tax increment financing district was authorized under a special law that received local approval or became effective without local approval before February 1, 2006, and the condemning authority commences the action within the time period permitted under the applicable general or special law for making expenditures to comply with Minnesota Statutes, section 469.1763, subdivision 3, but not to exceed a ten-year period; or

(4) the condemning authority commences the action before February 1, 2011, to complete land

assembly for a project, financed in whole or in part with abatement under Minnesota Statutes, sections 469.1813 to 469.1815, and the abatement resolution was adopted by one of the participating political subdivisions before February 1, 2006.

(c) Notwithstanding paragraphs (a) and (b), actions commenced after February 1, 2008, that satisfy the requirements of paragraph (b), clauses (1) to (4), are not subject to the definition of "public use" and "public purpose" under Minnesota Statutes, section 117.025, as amended by this act. The rest of the act applies to the actions.

(d) The definitions under Minnesota Statutes, section 469.174, apply for purposes of paragraphs (b) and (c).

(e) The provisions of this act do not apply to:

(1) property acquired for a highway project that, by the effective date, has been selected to receive federal funding by the area transportation partnership or metropolitan planning organization as part of the state transportation improvement program, if the action is commenced on or before January 15, 2007; or

(2) property acquired for the purpose of providing physical or financial assistance for emergency shelter and services for homeless persons in a first class city by a governmental unit or nonprofit organization, if the action is commenced on or before two years after the effective date.

(f) For purposes of this section, the following terms have the meanings given:

(1) "action" means a condemnation or eminent domain proceeding or action; and

(2) "commence" means when service of notice of the petition under Minnesota Statutes, section 117.055, is made."

Delete the title and insert:

"A bill for an act relating to eminent domain; making changes to and regulating the exercise of eminent domain; providing for public use or purpose and providing other definitions; providing for notice, hearing, and other procedural requirements; providing for attorney fees and additional forms of compensation; amending Minnesota Statutes 2004, sections 117.025; 117.036; 117.055; 117.075, subdivision 1; 117.085; 117.51; 117.52, subdivision 1, by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapter 117; repealing Minnesota Statutes 2004, section 117.011."

We request the adoption of this report and repassage of the bill.

Senate Conferees: (Signed) Thomas M. Bakk, Steve Murphy, Don Betzold, Linda Higgins, Julianne E. Ortman

House Conferees: (Signed) Jeff Johnson, Ron Abrams, Gregory M. Davids, Bruce Anderson, Paul Thissen

Senator Bakk moved that the foregoing recommendations and Conference Committee Report on S.F. No. 2750 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 2750 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 56 and nays 9, as follows:

Those who voted in the affirmative were:

Bachmann	Frederickson	Kubly	Nienow	Senjem
Bakk	Gerlach	Langseth	Olson	Skoe
Belanger	Hann	Larson	Ortman	Sparks
Berglin	Higgins	LeClair	Pogemiller	Stumpf
Betzold	Johnson, D.E.	Limmer	Reiter	Tomassoni
Bonoff	Johnson, D.J.	Lourey	Rest	Vickerman
Chaudhary	Jungbauer	Marty	Robling	Wergin
Clark	Kelley	McGinn	Rosen	Wiger
Day	Kierlin	Metzen	Ruud	
Dille	Kiscaden	Michel	Sams	
Fischbach	Koch	Murphy	Saxhaug	
Foley	Koering	Neuville	Scheid	

Those who voted in the negative were:

Anderson	Dibble	Marko	Pappas	Skoglund
Cohen	Hottinger	Moua	Ranum	

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

MOTIONS AND RESOLUTIONS - CONTINUED

Senator Neuville moved that S.F. No. 644 be taken from the table. The motion prevailed.

S.F. No. 644: A bill for an act relating to family law; requiring notification of noncustodial parents, corrections agents, local welfare agencies, and the court, of residence of a custodial parent with certain convicted persons; changing certain presumptions relating to paternity; disallowing certain convicted persons from becoming custodians of unrelated children; changing certain procedures for removal of a child's residence from Minnesota; requiring certain information in summary real estate disposition judgments; identifying pension plans subject to marital property division; authorizing the Department of Human Services to collect spousal maintenance; changing certain provisions concerning adoption communication or contact agreements; appropriating money; amending Minnesota Statutes 2004, sections 257.55, subdivision 1; 257.57, subdivision 2; 257.62, subdivision 5; 257C.03, subdivision 7; 259.24, subdivisions 1, 2a, 5, 6a; 259.58; 260C.201, subdivision 11; 260C.212, subdivision 4; 518.091, subdivision 1; 518.1705, subdivisions 4, 7; 518.175, subdivision 3; 518.179, by adding a subdivision; 518.18; 518.191, subdivision 2; 518.54, subdivisions 4a, 14, by adding a subdivision; 518.551, subdivision 1; 518.58, subdivision 4; proposing coding for new law in Minnesota Statutes, chapters 244; 257; 260C.

Senator Neuville moved that a new Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate to act with a like Conference Committee to be appointed on the part of the House on S.F. No. 644. The motion prevailed.

Senator Johnson, D.E. moved that Senate Resolution No. 176 be withdrawn from the Committee on Rules and Administration. The motion prevailed.

Senate Resolution No. 176: A Senate resolution recognizing the week of May 14-20, 2006, as Police Week and May 15, 2006, as Peace Officers Memorial Day.

WHEREAS, the police officers of the United States of America have worked devotedly and selflessly on behalf of the people of this nation, regardless of the peril or hazard to themselves; and

WHEREAS, these officers have safeguarded the lives and property of their fellow Americans; and

WHEREAS, by the enforcement of our laws, these same officers have given our country internal freedom from fear of the violence and civil disorder that is presently affecting other nations; and

WHEREAS, these men and women by their patriotic service and their dedicated efforts have

earned the gratitude of the State of Minnesota; NOW, THEREFORE,

BE IT RESOLVED by the Senate of the State of Minnesota that it recognizes the week of May 14-20, 2006, as Police Week, in honor of the service given by the men and women who, night and day, stand guard in our midst to protect us through enforcement of our laws; and May 15, 2006, as Peace Officers Memorial Day in honor of officers that have been killed or disabled in the line of duty, and urges all Minnesotans to recognize and support police officers in their communities.

Senator Reiter moved the adoption of the foregoing resolution. The motion prevailed. So the resolution was adopted.

RECESS

Senator Johnson, D.E. 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

Senator Johnson, D.E. 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 Messages From the House.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 2750, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 2750: A bill for an act relating to eminent domain; defining public use or purpose; prohibiting the use of eminent domain for economic development; requiring clear and convincing evidence for certain takings; providing for attorney fees and other additional elements of compensation; making other changes in the exercise of eminent domain; amending Minnesota Statutes 2004, sections 117.025; 117.036; 117.055; 117.075, subdivision 1, by adding a subdivision; 117.085; 117.51; 117.52, subdivision 1, by adding a subdivision; 163.12, subdivisions 1a, 1b; proposing coding for new law in Minnesota Statutes, chapter 117.

Senate File No. 2750 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 15, 2006

Mr. President:

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

requested:

S.F. No. 762: A bill for an act relating to the environment; creating the Clean Water Legacy Act; providing authority, direction, and funding to achieve and maintain water quality standards for Minnesota's surface waters in accordance with section 303(d) of the federal Clean Water Act; appropriating money; amending Laws 2005, chapter 20, article 1, section 39; proposing coding for new law in Minnesota Statutes, chapter 446A; proposing coding for new law as Minnesota Statutes, chapter 114D.

Senate File No. 762 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 15, 2006

Senator Frederickson moved that S.F. No. 762 be laid on the table. The motion prevailed.

Mr. President:

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

S.F. No. 2460: A bill for an act relating to higher education; providing a process for state support of a football stadium at the University of Minnesota; requiring a report; appropriating money; amending Minnesota Statutes 2004, sections 297A.71, by adding a subdivision; 340A.404, subdivision 4a; proposing coding for new law in Minnesota Statutes, chapter 473.

Senate File No. 2460 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 15, 2006

Senator Pogemiller moved that the Senate do not concur in the amendments by the House to S.F. No. 2460, and that a Conference Committee of 5 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House.

CALL OF THE SENATE

Senator Pogemiller imposed a call of the Senate for the balance of the proceedings on S.F. No. 2460. The Sergeant at Arms was instructed to bring in the absent members.

The question was taken on the adoption of the Pogemiller motion.

Senator Johnson, D.E. moved that those not voting be excused from voting. The motion prevailed.

The roll was called, and there were yeas 44 and nays 18, as follows:

Those who voted in the affirmative were:

Anderson	Chaudhary	Frederickson	Koering	Metzen
Bakk	Clark	Higgins	Kubly	Michel
Belanger	Cohen	Hottinger	LeClair	Moua
Berglin	Dibble	Johnson, D.E.	Lourey	Murphy
Betzold	Dille	Kelley	Marko	Pappas
Bonoff	Foley	Kiscaden	Marty	Pogemiller

Ranum
Rest
Sams

Saxhaug
Scheid
Senjem

Skoe
Skoglund
Solon

Sparks
Stumpf
Tomassoni

Vickerman
Wiger

Those who voted in the negative were:

Bachmann
Day
Fischbach
Gerlach

Jungbauer
Kierlin
Koch
Larson

Limmer
McGinn
Neuville
Nienow

Ortman
Reiter
Robling
Rosen

Ruud
Wergin

The motion prevailed.

RECESS

Senator Johnson, D.E. 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.

APPOINTMENTS

Senator Johnson, D.E. from the Subcommittee on Committees recommends that the following Senators be and they hereby are appointed as a Conference Committee on:

S.F. No. 644: Senators Neuville, Betzold and Skoglund.

S.F. No. 2460: Senators Pogemiller, Metzen, Moua, Tomassoni and Michel.

Senator Johnson, D.E. moved that the foregoing appointments be approved. The motion prevailed.

MEMBERS EXCUSED

Senator Pariseau was excused from the Session of today. Senator Rosen was excused from the Session of today from 11:00 to 11:20 a.m. Senators Gerlach and Ortman were excused from the Session of today from 1:00 to 1:15 p.m. Senator Solon was excused from the Session of today from 4:00 to 4:25 p.m. Senators Hann; Johnson, D.J. and Olson were excused from the Session of today at 6:30 p.m.

ADJOURNMENT

Senator Johnson, D.E. moved that the Senate do now adjourn until 10:00 a.m., Tuesday, May 16, 2006. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate

