

Municipal Legislative Commission

2016 Session

Minnesota Legislative Report

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2016 LEGISLATIVE SESSION SUMMARY

The Legislative Session convened on March 8, 2016. From the beginning, it was clear that this session would be fast paced. With a substantial portion of the Capitol closed for repairs, lawmakers allowed for just 10 weeks to complete their work before the Constitutional deadline for adjournment on May 23.

Historically, even-numbered years at the Legislature are non-budget, capital bonding years. However, with a projected budget surplus, the Legislature also spent a considerable amount of time debating the use of these additional dollars. Moreover, work continued on some key items left on the table from last session – transportation and taxes.

During the last weekend of session, the Legislature made a frenzied dash to complete their work on time. In the waning hours, the House and Senate were able to pass a Supplemental Budget Bill that provides \$182 million in additional spending for the biennium, funding a wide range of programs from prekindergarten to broadband expansion. Additionally, they were able to come to an agreement on an Omnibus Tax Bill containing \$257 million in tax relief over the 2016-17 biennium and \$543 million the subsequent biennium.

While agreement was reached on these proposals, lawmakers unfortunately failed to come to an agreement on a few other major items they hoped to complete this year. Among the proposals left unfinished was a major transportation funding package and a bonding bill for statewide construction projects. After weeks of discussion on how to fund transportation, legislative leaders were at an impasse. Late Sunday, they made a final effort to provide some one-time funding for roads and bridges as part of a larger bonding package. The House passed a bonding bill and sent it to the Senate. The Senate added a provision that would have allowed Hennepin County to fund the remaining portion of Southwest Light Rail Transit. However, before they could send the bill back, the House adjourned for the session.

What follows is a brief overview of the major pieces of legislation that passed or failed to pass this session:

ITEMS THAT PASSED

Taxes. On the final day of session, the Legislature passed a package of tax cuts that will provide \$257 million in tax relief over the 2016-17 biennium and \$543 million in the subsequent biennium. The bill contains proposals from both parties and provisions in the bill include:

- nearly full conformity to federal tax provisions enacted in 2014
- first-in-the-nation student loan tax credit
- expansion of the child care tax credit
- tax deductions and credits for families contributing to 529 college savings plans
- expansion of the working family tax credit
- expansion of tax credits for some veterans
- a school building bond agricultural credit
- a one-time exemption of the first \$100,000 of CI market value from the state general levy

Supplemental Budget. The Legislature passed a 599-page supplemental budget bill during the final hours of session. The bill provides \$182 million in spending for the 2016-17 biennium. Along with a number of policy and technical changes, the bill provides funding for a wide range of programs, including \$25 million for prekindergarten, \$35 million for broadband expansion, and \$35 million for equity programs – all of which were priorities for Governor Dayton.

Although some additional spending is offset by new revenue, the overall budget impact of this proposal by funding area is:

- Jobs, Energy and Equity: \$75 million
- State Government: \$45.23 million
- E-12 Education: \$25 million
- Public Safety: \$24.97 million
- Environment and Agriculture: \$7.18 million
- Higher Education: \$5 million
- Health and Human Services: \$0

Body Cameras. After two years of discussions, the Legislature passed a bill governing police use of body cameras. The bill required some last minute changes to gain Governor Dayton’s support, who called for lawmakers to remove a provision that allowed officers to review video before submitting a written incident report. Ultimately, an agreement was reached, passed by both bodies, and sent to the Governor.

Drug Sentencing. The Legislature approved a proposal that calls for the first major changes to the state’s drug sentencing guidelines in nearly 30 years. The bill reflects an agreement between various groups involved in the criminal justice system. Supporters say the changes will ensure that offenders who should be in prison spend time behind bars, while others who may be more amenable to treatment or probation are not sentenced to serve time.

ITEMS THAT FAILED TO PASS

Capital Investment. The House and Senate failed to pass a roughly \$1 billion bonding package for public works projects across the state. Rolled out with roughly an hour remaining before the Legislature’s constitutionally-mandated midnight deadline, the proposal was amended onto an existing capital investment bill. After passing out of the House, it was further amended in the Senate to include funding for the proposed Southwest light rail line – a key sticking point in negotiations. The House then adjourned before the amended version of the bill could return for a final vote.

Transportation. Legislators spent weeks discussing how to fund transportation fixes, with proposals such as a gas tax increase, license tab fee increases, borrowing, and spending surplus money all in the mix. As the deadline approached, legislators were unable to reach an agreement and ultimately no transportation bill was passed this session.

Real ID. Negotiations over Real ID broke down over the controversial issue of drivers licenses for undocumented immigrants. House and Senate members working on the issue were unable to settle the conflict this year, which means the issue of Real ID licenses will remain unsettled.

Almost immediately following adjournment, legislative leaders in the House and Senate began urging the Governor to call a special session to revisit unfinished items. Governor Dayton has expressed a willingness to do so, but he only if House Republicans agree in advance to increase spending for the University of Minnesota and Twin Cities-based transit programs as well as reauthorize a sales tax exemption on tickets for high school sporting events used to fund a charitable foundation benefiting athletes from low-income families.

With the Legislature adjourned, the focus will now turn to upcoming elections. Both the House and Senate are up for election this year. 21 legislators have announced their retirements, leaving many open seats up for grabs. This turnover, combined with an unpredictable presidential election, should make for interesting election fight come November.

Sincerely,

The Government Affairs Team
Messerli & Kramer, P.A.

2016 MLC LEGISLATIVE PROGRAM RESULTS

I. Promote accountability and transparency in the state/local fiscal relationship

- A. Supports property tax relief programs that help promote a more equitable property tax burden as a percentage of income (Voss Database).
 - *Minimal policies passed this Session that promote a more equitable property tax burden (principally due to the lack of focus in the property tax area as investments were made in the individual income and corporate tax relief areas).*
- B. Supports individual property tax relief through the circuit breaker program.
 - *The Omnibus Tax Bill did not focus investments in the property tax relief area. However, the Agricultural Market Value Homestead Credit did receive a \$77 million increase.*
 - *There was no increase to the circuit breaker program nor did they fund a change to the “targeting” refund program (going from 12% to 10%).*
- C. Opposes automatic inflationary increases in LGA.
 - *There was no automatic inflationary increase provision included in the Omnibus Tax Bill.*
 - *There was a \$20 million increase (permanent base increase) to LGA and a one-time shift of \$34 million from 2018 to 2017 (three LGA payments in 2017).*
- D. Supports preliminary levy date change for all special taxing districts (EDAs, HRAs, etc.) from September 15th to September 30th.
 - *The preliminary levy date change for special tax districts was included in the Omnibus Tax Bill.*
- E. Supports allowing a sales tax exemption for local government purchases of snowplows and road construction vehicles and fixing the construction materials sales tax exemption for local units of government.
 - *Sales tax exemptions for local governments were not supported this Session. The limited investments in sales tax relief went to exemptions for stadium suites and an iron range siding facility.*
- F. Supports increased transparency and prudent reform in the state’s commercial “Fiscal Disparities” program.
 - *No Fiscal Disparities reform was included this Session. Rep. Atkins’ measure to cap the fiscal disparities contribution for small net contributing cities was not included in the Omnibus Tax Bill.*
- G. Opposes the Minnesota Housing Partnership’s affordable housing initiative called the Home Grown Housing Fund.
 - *There was no action taken on the proposal this session.*

H. Opposes fiscal limitations on local units of government.

➤ *There were no levy limits imposed this session.*

II. Invest in job retention and growth

A. Supports a broad based transportation funding package that promotes economic development and growth in the region and keeps Minnesota competitive.

➤ *No comprehensive transportation package was passed this session. The 2015 Transportation Conference Committee continued in 2016, but lawmakers were unable to reach agreement on a compromise bill.*

B. Supports providing DEED with the tools and incentives necessary to attract and retain businesses.

➤ *Despite protests from MLC, Metro Cities, suburban legislators, and the Governor's Office, the Minnesota Investment Fund (MIF) and the Job Creation Fund (JCF) were both cut in the Supplemental Budget Bill. MIF was cut by \$9 million in FY17 and \$4 million a year going forward. JCF was cut by \$11.5 million in FY17 and \$6 million a year going forward.*

C. Supports flexibility in Tax Increment Financing (TIF) policies.

➤ *The omnibus tax bill contained modifications to interfund loan requirements that will give cities additional flexibility.*

III. Support local government opportunities to be efficient, productive, and enterprising

A. Concerns with mandates relating to expenditure-type reporting.

➤ *There was no discussion on this issue during session.*

B. Supports better aligning agency oversight of Water Resource Management and monitoring the supply of surface water.

➤ *There was no significant realignment of water resources management. There were a number of small monitoring projects funded in the LCCMR bill.*

C. Supports classification of body camera data.

➤ *Comprehensive body camera legislation was passed this session.*

D. Supports Street Improvement Districts.

➤ *No comprehensive transportation package was passed this session and this issue was not considered.*

OMNIBUS TAXES BILL

H.F. 848 – **Chapter 188**

Representative Greg Davids & Senator Rod Skoe

Effective various dates

This session, work continued on an Omnibus Tax Bill that was left on the table from last year. On the final day of session, the Legislature passed a compromise package of tax cuts that provide \$257 million in tax relief over the 2016-17 biennium and \$543 million in the subsequent biennium. The bill includes an expansion of the child care credit and a student loan debt credit, reductions in the tobacco tax, federal conformity language, sales tax requirements on marketplace providers that are located in Minnesota, an increase in local government aid (LGA), and several tax increment financing (TIF) provisions for cities in the metro area.

Tax Increment Financing (TIF) Provisions: The Omnibus Tax Bill includes general changes to the TIF statutes requested by cities and omits others. Included in the bill:

- Interfund loans. The bill clarifies that interfund loans may be made before or after creation of the TIF district, must be made within 60 days of transferring, advancing, or spending the funds, and may be made until the last decertification of any TIF district from which the loan is repaid. The bill also clarifies that interfund loans may be structured as draw-down or line-of-credit obligations. Finally, the bill requires annual reporting of interfund loans. The provision is effective the day following final enactment and applies to all districts, regardless of when the request for certification was made.
- Technical provisions related to the five-year rule recommended by the State Auditor.

The Omnibus Tax Bill contains two local TIF provisions for MLC cities:

- Burnsville: Increases the four-year rule to nine years and grants additional flexibility for development of the quarry and landfill parcel in the city.
- Maple Grove: Grants the city more flexibility to meet the requirements of the 2014 special law allowing the city to redevelop the site of a gravel pit.

Other Provisions of Interest: The bill includes a number of other provisions of interest to MLC. These provisions are:

- A date change for the certification of property tax levy for all special districts, with the exception of the Metropolitan Council and Mosquito Control District, from September 15 to September 30, consistent with the dates now allowed for cities and counties.
- A \$20 million permanent increase in LGA that includes a one-time shift of \$34 million from the 2018 payment to 2017 (there will be three payments – June, July and September – in 2017 only).
- An exemption of the first \$100,000 of market value of commercial-industrial property from the statewide property tax (a \$31 million reduction in the state general fund).
- An expansion of the number and types of businesses who “maintain a place of business” in Minnesota, and who therefore must collect and remit sales taxes to the state, even

when the sales are made on-line. This provision would only become effective if the United States Supreme Court overturned its ruling on in the *Quill* case.

Provisions NOT Included: Notably absent from the bill are a number of issues that were discussed this session, including:

- A reverse referendum for franchise fees.
- A fix to the Joint Powers Agreement sales tax exemption 1-year delay (Jan. 1, 2017).
- A clarification requested by cities that customary operations and maintenance expenses necessary to preserve property within a TIF district qualify as “administrative expenses” and may be paid for with increment.
- Changes to the six-year rule pooling provisions that would have calculated the 25% pooling limit on an annual basis, as opposed to over the life of the district. Under this proposal, any pooled increment would have to be spent in the year in which it was collected. **NOTE:** The State Auditor interprets the current statute to require the annual calculation of the pooling limit.
- An Atkins provision on fiscal disparities, which would have capped the contribution for small net contributors.
- A provision that would have allowed citizens to retroactively challenge a city council’s decision on the property tax levy through a reverse referendum process.
- A set of changes that would have moved all city, county, and school district referendum elections to the general election.
- A provision that would have reduced the metro area sales tax for transit base by excluding sales tax on electricity and utility purchases.

The bill passed in the House on a vote of 123-10 and in the Senate on a vote of 55-12. The bill was presented to the Governor on May 24, 2016 and he has 14 days to decide whether to sign it into law.

An overview of the entire bill is included in the Appendix.

SUPPLEMENTAL BUDGET

OMNIBUS SUPPLEMENTAL BUDGET BILL

H.F. 2749 – Chapter 189

Representative Jim Knoblach & Senator Richard Cohen

Effective various date

The Legislature passed a 599-page supplemental budget bill during the final hours of session. The bill provides \$182 million in spending for the 2016-17 biennium. Along with a number of policy and technical changes, the bill provides funding for a wide range of programs, including \$25 million for prekindergarten, \$35 million for broadband expansion, and \$35 million for equity programs – all of which were priorities for Governor Dayton.

Although some additional spending is offset by new revenue, the overall budget impact of this proposal by funding area is:

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- Higher Education: \$5 million
- Health and Human Services: \$0

Despite protests from MLC, Metro Cities, suburban legislators, and the Governor's Office, the Minnesota Investment Fund (MIF) and the Job Creation Fund (JCF) were both cut in the bill. The MIF was cut by \$9 million in FY17 and \$4 million a year going forward. The MIF total general fund appropriation was \$15 million, which now leaves \$5.5 million in the fund. The JCF was cut by \$11.5 million in FY17 and \$6 million a year going forward. The JCF total general fund appropriation was \$12.5 million, which now leaves \$1 million dollars in the fund.

Noticeably absent from the bill was:

- An interim ordinance 10-day notice requirement.
- A repeal of the Legislative Water Commission.
- A provision establishing the registration and regulation of massage and bodywork therapists.

The bill passed in the House on a vote of 95-39 and in the Senate on a vote of 50-16. The bill was presented to the Governor on May 24, 2016 and he has 14 days to decide whether to sign it into law.

LOCAL GOVERNMENT

TEMPORARY HEALTH CARE DWELLINGS

S.F. 2555 – **Chapter 111**

Senator John Hoffman & Representative Roz Peterson

Effective September 1, 2016

This legislation requires local governments to permit certain types of recreational vehicles as temporary family dwellings. A temporary family health care dwelling is a mobile residential dwelling where a physically or mentally impaired person may live while receiving care from a relative, guardian, or health care agent. The bill creates a new type of permit that has a six month duration, with an option to extend the permit for an additional six months. After MLC and other city groups expressed concerns, the bill was amended to allow cities and counties to pass ordinances opting out of this new permitting system.

The bill passed in the House on a vote of 113-17 and in the Senate on a vote of 50-15. Governor Dayton signed the bill into law on May 12, 2016.

DONATION OF SURPLUS EQUIPMENT

H.F. 1003 – **Chapter 87**

Representative Carolyn Laine & Senator Barb Goodwin

Effective August 1, 2016

This bill permits a county, home rule or statutory city, town, or joint powers entity of a city, county or town to donate certain surplus equipment – such as cell phones or emergency medical and firefighting equipment – to nonprofit organizations. It also limits the liability of local governments regarding donated equipment and would require them to adopt policies on determining what equipment and organizations are eligible to be donated.

The bill passed in the House on a vote of 128-1 and in the Senate on a vote of 58-0. Governor Dayton signed the bill into law on April 25, 2016.

OMNIBUS LIQUOR BILL

H.F. 2749 – **Chapter 189**

Representative Jim Knobloch & Senator Richard Cohen

Effective various date

A local government liquor licensing bill was included in the Supplemental Budget Bill (H.F. 2749). The bill grants a number of requests for special liquor license throughout the state. During the House floor debate on this legislation, Rep. Loon presented an amendment that would take a step toward Sunday off-sales by giving municipalities control over whether they should be allowed. After a long debate, the amendment failed on a vote of 70-56.

ELECTIONS BILLS

Omnibus Elections Bill

S.F. 2381 – **Chapter 161**

Senator Katie Sieben & Representative Tim Sanders

Effective Various Dates

The Omnibus Elections Bill was a compromise piece of legislation to address a number of pending provisions not included in last year's bill. The bill makes changes to the in-person absentee balloting process. It streamlines the process by allowing in-person absentee voters to place their ballots directly into the tabulator beginning seven days before Election Day. The bill modifies the process for filing school board vacancies, allowing a school board to make an appointment to fill a vacancy but establishing requirements for an election be held. It also provides for the creation of elections emergency plans by local elections administrators – language that was based on recommendations made by the Elections Emergency Task Force. Additionally, the bill includes a Secretary of State's technical fix and corrections provision, a presidential elector meeting space provision, and an election emergency planning provision.

The bill passed in the House on a vote of 118-14 and in the Senate on a vote of 40-21. Governor Dayton signed the bill into law on May 22, 2016.

Presidential Primary Bill

S.F. 2985 – **Chapter 162**

Senator Ann Rest & Representative Tim Sanders

Effective Various Dates

In response to long lines and other logistical headaches at the presidential caucuses this spring, legislators proposed legislation moving Minnesota to a presidential primary system. The bill requires a presidential nomination primary in Minnesota to be held on a date jointly selected by the party chairs of the major political parties. There will be a separate presidential nomination primary ballot for each party and each party determines which candidates will be placed on the ballot for that party. Each voter must request the ballot of the party for whom they wish to vote. The results of the presidential nomination primary bind the party election of delegates. The Secretary of State must reimburse counties and municipalities for the expense of conducting the presidential nomination primary.

One key provision in the bill is the requirement that voters certify their agreement with the party in whose primary they choose to vote. The party choice is recorded and becomes part of the voter public information list. While an individual's vote is confidential, their party affiliation would be given to the state's two major political parties.

The bill passed in the House on a vote of 106-23 and in the Senate on a vote of 46-11. Governor Dayton signed the bill into law on May 22, 2016.

MET COUNCIL

A number of bills were introduced this session that would make changes to the Metropolitan Council. However, no legislation was ultimately passed by both bodies.

As introduced, H.F. 2104 (Abright)/S.F. 2008 (Dibble) would have established a Blue Ribbon Commission to study and make recommendations on the needs of the region and the role of the Met Council. The bill moved through a few committees in the House, but made no progress in the Senate.

S.F. 2385 (Dibble)/H.F. 2467 (Albright) would also make a number of changes to the Metropolitan Council. The bill relied heavily on recommendations made by the Citizens League, a nonprofit policy group. The House version of this bill would have established staggered, four year terms for Metropolitan Council members, effective in 2019, after the next governor is elected. It also would have provided that members of the council must be local elected officials, would have expanded the nominating committee, and would have changed who appoints the nominating committee. Finally, it would have established a Blue Ribbon Commission to study the Council's powers, duties, structure, and the needs of the region.

In the Senate, the bill also provided for staggered terms for Met Council members. Additionally, it would have required more notice along with the notice of a vacancy on the Council. It would have expanded the membership of the nominating committee and changed the nominating process to require additional information be made public. It also would have required the Met Council to establish an advisory committee to look at ways to reduce concentrations of poverty in the region. The bill was taken up on the Senate floor. During a lengthy floor debate, they voted down an amendment that would have made more dramatic changes, including the House provision requiring elected city and county officials to serve on the Met Council. While the bill passed the Senate on a vote of 41-21, it was never taken up by the House.

PUBLIC SAFETY

BODY CAMERAS

SF 498 – Chapter 171

Senator Ron Latz & Representative Tony Cornish

Effective August 1, 2016

The Legislature passed comprehensive legislation regulating the use of body cameras, and the classification of body camera data under the Minnesota Government Data Practices Act (MGDPA). Despite continued opposition from a number of organizations and legislators, the bill passed the Senate 41-17 and the House 96-34. Governor Dayton signed the bill into law on May 31, 2016. A summary of the bill's requirements is below.

Body camera policies and oversight. A law enforcement agency may not purchase or implement a body camera system before it provides an opportunity for public comment. The law enforcement agency must have a written policy governing the use of body cameras that contains, at a minimum, eight statutorily required provisions. A department that has body cameras in use before August 1, 2016 must adopt a written policy no later than January 15, 2017.

A law enforcement agency must maintain an inventory of portable recording system technology that is available to the public. It must contain: the total number of recording devices owned or maintained by the agency; a daily record of the total number of devices deployed and in what precincts the devices were used; the policies and procedures for their use; the total amount of recorded video data maintained by the agency; the agency's retention schedule for the data; and the agency's procedures for destruction of the data.

A law enforcement agency must arrange for an independent, biennial audit to determine whether it is complying with state law and local policies. The governing body must review the audit, and if it finds that the agency has failed to comply with the policies, it must suspend the program after a public hearing.

Within 10 days of obtaining new surveillance technology, a law enforcement agency must provide the Bureau of Criminal Apprehension (BCA) with a description of the technology and its intended uses. This information must be made available to the public on the BCA's website.

Collection of data. The bill does not establish a standard for when a body camera must be turned on, but the agency's written policy must establish the circumstances when recording is mandatory, prohibited, or at the discretion of the officer. The bill also states that the Tennessee warning provisions of the MGDPA do not apply to collection of body camera data.

Classification of body camera data. Data collected by body cameras are private data on individuals or nonpublic data, subject to the following exceptions.

- Data documenting the discharge of a firearm by a peace officer in the course of duty, or the use of force by a peace officer that results in substantial bodily harm are public.

- Data are public if the data subject requests that it be made public, except that data on a subject who is not a peace officer must be redacted, unless they consent to the release.
- Data that are active criminal investigative data are confidential and governed by the existing criminal investigative provisions of the MGDPA.
- Data related to the final disposition of disciplinary action are public.
- A law enforcement agency may redact or withhold access to otherwise public data that are clearly offensive to common sensibilities, or it may release otherwise private data that will aid the law enforcement process, promote public safety, or dispel widespread rumor or unrest.

The bill also allows any person to challenge a law enforcement’s classification of body camera by filing suit in district court.

Retention of data. Data that are not active or inactive criminal investigative data must be maintained for at least 90 days, and then destroyed according to the agency’s record retention schedule. The following exceptions apply:

- Data that document the discharge of a firearm by an officer in the course of duty or the use of force that results in substantial bodily harm must be kept by the agency for at least one year.
- If a formal complaint is filed against an officer, the data related to the incident must be kept for at least one year.
- A data subject may request that the agency keep data that has possible evidentiary or exculpatory use related to the circumstances under which the data were collected for up to 180 days. The data subject may make additional requests at the end of the 180-day period.
- A law enforcement agency may retain data for as long as reasonably necessary for possible evidentiary or exculpatory use related to the incident at issue.

PUBLIC SAFETY OFFICER DEATH BENEFITS

SF 588 – Chapter 177

Senator Sandy Pappas & Representative Tim O’Driscoll

Effective Various Dates

The Omnibus Retirement Bill contains a provision that expands the definition of “line of duty death” in PERA Police & Fire to include accidental death in certain circumstances. The Commissioner of Public Safety would have to determine that an employee covered by the plan was “killed in the line of duty,” as defined by the Public Safety Officer’s Benefit Account. This definition was amended by the Supplemental Budget Bill to include death from heart attack, stroke, or vascular rupture that occurs while performing dangerous duties or within 24 hours of performing these duties. Such a determination would entitle the survivors of the employee additional benefits under PERA P&F. This change is in response to a firefighter who died of a heart attack shortly after returning from fighting a fire.

LEGISLATION THAT FAILED TO PASS IN 2016

- A comprehensive transportation funding package
- A capital investment bill
- Restrictions on city authority to implement organized waste collection
- Restrictions on city authority to implement franchise fees
- Additional notice requirement for any ordinance affecting businesses
- Public hearing requirement for imposing an interim ordinance related to housing.
- Met Council staggered terms
- Fiscal disparities contribution changes that would have capped the contribution for small net contributors.
- Registration and regulation of massage and bodywork therapists
- Requirement of notice of proposed ordinances affecting business licenses
- Metropolitan Council membership and terms modifications.
- Sunday liquor sales
- Homestead tax payment over eight monthly installments per year
- Repeal of Legislative Water Commission
- Real ID licenses
- A fix to the Joint Powers Agreement sales tax exemption 1-year delay (Jan. 1, 2017).
- A clarification that customary operations and maintenance expenses necessary to preserve property within a TIF district qualify as “administrative expenses.”
- Changes to the six-year rule pooling provisions that would have calculated the 25% pooling limit on an annual basis.
- Retroactive challenges to city council decisions on the property tax levy through a reverse referendum process.
- Moving all city, county, and school district referendum elections to the general election.
- A reduction to the metro area sales tax for transit base by excluding sales tax on electricity and utility purchases.

APPENDIX

OMNIBUS TAXES BILL OVERVIEW

Article 1: Property Taxes

Exempts the first \$100,000 of each commercial-industrial parcel from the state general levy, with a levy reduction so that the cost is not shifted to other properties. Provides a property tax exemption for a Major League Soccer facility to be located in St. Paul. Eliminates the eight year limit on the right of a surviving spouse of (i) a disabled veteran, or (ii) a service member who dies while in active service, to continue to receive the disabled veteran's exclusion. Provides for state reimbursement of property tax abatements to economically distressed businesses in the Lake Mille Lacs area. Provides for uniform late payment penalties for first-half and second-half property tax payments. Allows a property's enrollment in the metropolitan agricultural preserves program to be terminated upon the death of an owner of the property.

Article 2: Aids and Credits

Provides for a property tax credit for owners of agricultural property equal to 40 percent of the tax on the property attributable to school district debt levies. Provides a permanent increase of \$20 million to city LGA. Provides a permanent increase of \$10 million to county program aid. Provides for state reimbursement to counties and tribes for the nonfederal share of out-of-home placement costs under the Indian Child Welfare Act. Provides \$10 million in aid each year to counties and watershed districts to enforce and implement riparian protection and water quality practices. Provides early payments of a portion of 2017 LGA to cities. Provides aid to school districts for interest payments made under the maximum effort loan program. Requires the state auditor to establish standard reporting requirements for towns and makes town aid contingent on timely filing of these reports. Repeals the Debt service aid for the Lewis and Clark Water project.

Article 3: Income, Corporate, and Estate Taxes

Retroactively conforms Minnesota's individual income tax and corporate franchise tax to most federal changes enacted since December 31, 2014. Modifies the statutory residency test and the domicile test used to determine if an individual is a Minnesota resident for individual income and estate tax purposes. Allows excess section 179 subtraction amounts to be carried over for ten tax years. Allows an income tax subtraction for contributions to section 529 college savings plans, including prepaid tuition plans. Increases the state dependent care credit to equal the federal credit for taxpayers with adjusted gross incomes (AGI) up to \$38,000. Allows new refundable individual income tax credits for:

- principal and interest payments on student loans;
- contributions to section 529 college savings plans; and
- K-12 teachers who complete master's degrees in their field of licensure.

Expands the working family credit to filers without qualifying children who are age 21 to 24, and increases the credit rate so that claimants qualify for the maximum credit at lower income levels. Allows a refundable income tax credit for Minnesota residents who work in Wisconsin in years when an income tax reciprocity agreement is not in effect. Provides that acquisition of qualified

property by a governmental unit with eminent domain power does trigger the recapture tax under the estate tax.

Article 4: Sales, Use, and Excise Taxes

Establishes sales tax collection duties for marketplace providers located in the state and most retailers using marketplace place providers located in the state with a delayed effective date, contingent on Supreme Court or Congressional action related to internet sales Modifies and clarifies the definition of taxable admissions Expands the durable medical equipment exemption Changes the nonprofit fundraising limit on days from 5 to 10 Provides expanded sales tax exemptions and reimbursements for Super Bowl LII Provides construction exemptions for a siding factory, facilities destroyed in the Madelia fire, and redevelopment of a school site in Duluth Modifies existing local sales tax authority for Duluth, Hermantown, Mankato, North Mankato and Proctor. Allows the city of East Grand Forks to impose a local sales tax. Provides retroactive validation of existing local taxes for the city of Marshall.

Article 5: Special Taxes

Amends tax provisions relating to aviation gasoline to include gasoline used as a substitute for aviation gasoline. Imposes a tax rate of 9% on paper pull-tabs sold at bingo halls and provides a new definition for “bingo halls”. Imposes two new tax rates on vapor products based the concentration of nicotine in the solution used in vapor products. Currently, vapor products are taxed at a rate of 95% of the wholesale price. The new provisions tax vapor products at either (1) 300% if the nicotine concentration is 50 milligrams per milliliter or more, or (2) 45% if the nicotine concentration is less than 50 milligrams per milliliter. Repeals the annual inflation adjustment on the cigarette excise tax and freezes the rate at 15 cents per cigarette (\$3.00 per pack).

Article 6: Minerals

Provides that for concentrates produced by a plant subject to a reimbursement agreement dated September 9, 2008 (Essar), the amount of production tax that would have been paid to the taconite economic development fund is redirected and deposited in the Douglas J. Johnson economic protection trust fund until the commissioner of employment and economic development certifies that all requirements of the reimbursement agreement are satisfied. Adds six unorganized territories in St. Louis and Itasca counties to the township fund and creates a new base year at the current distribution amount. Clarifies the 1 cent per ton distribution to a county with a power plant that supplies power to a taconite mining and concentrating facility in another county. Provides that the Iron Range school consolidation and cooperatively operated account fund shall continue to receive the amount equal to two-thirds of the sum of the increased proceeds attributable to the increase in the implicit price deflator for distribution years 2015, 2016, and 2017.

Article 7: Local Development

This article makes a number of clarifying and minor changes in the tax increment financing (TIF) statute, as requested by the League of Minnesota Cities. It also grants special TIF authority to the following local government units:

- Anoka (city)
- Burnsville
- Coon Rapids
- Cottage Grove
- Edina (validating a previous special law)
- Northfield
- Seaway Port Authority (Duluth)
- Richfield
- St. Paul

Article 8: Public Finance

This article makes various minor changes in the procedures and authority to issue local government debt obligations to finance capital facilities, based on recommendation made by the Public Finance Institute, a trade association of the professionals who advise local governments on these issues. Unless otherwise noted, the changes would become effective July 1, 2016, under the default rule for laws containing appropriations.

Article 9: Iron Range Resources and Rehabilitation Board

This article provides that the Iron Resources and Rehabilitation Board (IRRRB) is advisory to the commissioner of Iron Range Resources and Rehabilitation. If the statute provides that IRRRB itself has executive authority, the article transfers that authority to the commissioner and makes the IRRRB advisory. This follows recommendations made by the Office of Legislative Auditor in its March 2016 program evaluation of the IRRRB.

Article 10: SFIA

This article revises the Sustainable Forest Incentive Act to the 2014 report from the Office of the Legislative Auditor. The revisions are intended to provide greater accountability and oversight, and align current land use practices with the purposes of the act.

Article 11: Miscellaneous

This article:

- Establishes a felony criminal penalty for the sale, purchase, installation, transfer, possession, accessing, and use of a sales suppression device or “zapper”- devices designed and used to avoid sales tax - as well as imposing civil liability on developers and sellers of the devices.
- Creates a new markets grant program administered by the Department of Employment and Economic Development (DEED), funded with a onetime \$30 million appropriation. Qualification rules are similar to the federal new markets tax credit program.

- Establishes a tax time savings grant program to provide state grants to TCE (Tax Counseling for the Elderly) and VITA (Volunteer Income Tax Assistance) organizations so that they can help their clients open bank accounts, deposit tax refunds in them, and purchase U.S. savings bonds. \$400,000 is appropriated for the grants in fiscal year 2017; in addition, an additional \$400,000 is appropriated for taxpayer assistance grants.
- Provides \$3 million in allocations for the border city enterprise program.
- Increases the small claims jurisdiction of the Tax Court in state tax cases by \$10,000 (to \$15,000) and increases the time for serving petitions for rehearing of the court's decisions.
- Disallows claiming a homestead credit refund if the taxpayer uses the simplified deduction for a home office.
- Makes various grant appropriations for local governments and the administrative appropriation for the bill.

TEMPORARY HEALTH CARE DWELLINGS

- 1.1 *A bill for an act*
- 1.2 *relating to local government; regulating zoning of temporary family health*
- 1.3 *care dwellings; establishing temporary dwelling permits; amending Minnesota*
- 1.4 *Statutes 2014, section 144D.01, subdivision 4; proposing coding for new law in*
- 1.5 *Minnesota Statutes, chapters 394; 462.*
- 1.6 *BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:*
- 1.7 *Section 1. Minnesota Statutes 2014, section 144D.01, subdivision 4, is amended to read:*
- 1.8 *Subd. 4. **Housing with services establishment or establishment.** (a) "Housing*
- 1.9 *with services establishment" or "establishment" means:*
- 1.10 *(1) an establishment providing sleeping accommodations to one or more adult*
- 1.11 *residents, at least 80 percent of which are 55 years of age or older, and offering or*
- 1.12 *providing, for a fee, one or more regularly scheduled health-related services or two or*
- 1.13 *more regularly scheduled supportive services, whether offered or provided directly by the*
- 1.14 *establishment or by another entity arranged for by the establishment; or*
- 1.15 *(2) an establishment that registers under section 144D.025.*
- 1.16 *(b) Housing with services establishment does not include:*
- 1.17 *(1) a nursing home licensed under chapter 144A;*
- 1.18 *(2) a hospital, certified boarding care home, or supervised living facility licensed*
- 1.19 *under sections 144.50 to 144.56;*
- 1.20 *(3) a board and lodging establishment licensed under chapter 157 and Minnesota*
- 1.21 *Rules, parts 9520.0500 to 9520.0670, 9525.0215 to 9525.0355, 9525.0500 to 9525.0660,*
- 1.22 *or 9530.4100 to 9530.4450, or under chapter 245D;*
- 1.23 *(4) a board and lodging establishment which serves as a shelter for battered women*
- 1.24 *or other similar purpose;*
- 1.25 *(5) a family adult foster care home licensed by the Department of Human Services;*
- 2.1 *(6) private homes in which the residents are related by kinship, law, or affinity with*
- 2.2 *the providers of services;*
- 2.3 *(7) residential settings for persons with developmental disabilities in which the*

- 2.4 *services are licensed under Minnesota Rules, parts 9525.2100 to 9525.2140, or applicable*
- 2.5 *successor rules or laws;*
- 2.6 *(8) a home-sharing arrangement such as when an elderly or disabled person or*
- 2.7 *single-parent family makes lodging in a private residence available to another person*
- 2.8 *in exchange for services or rent, or both;*
- 2.9 *(9) a duly organized condominium, cooperative, common interest community, or*
- 2.10 *owners' association of the foregoing where at least 80 percent of the units that comprise*
- 2.11 *the*
- 2.12 *condominium, cooperative, or common interest community are occupied by individuals*
- 2.13 *who are the owners, members, or shareholders of the units; ~~or~~*
- 2.14 *(10) services for persons with developmental disabilities that are provided under*
- 2.15 *a license according to Minnesota Rules, parts 9525.2000 to 9525.2140 in effect until*
- 2.16 *January 1, 1998, or under chapter 245D; or*
- 2.17 *(11) a temporary family health care dwelling as defined in sections 394.307 and*
- 2.18 *462.3593.*

2.18 **Sec. 2. [394.307] TEMPORARY FAMILY HEALTH CARE DWELLINGS.**

2.19 **Subdivision 1. Definitions.** *(a) For purposes of this section, the following terms*

2.20 *have the meanings given.*

2.21 *(b) "Caregiver" means an individual 18 years of age or older who:*

2.22 *(1) provides care for a mentally or physically impaired person; and*

2.23 *(2) is a relative, legal guardian, or health care agent of the mentally or physically*

2.24 *impaired person for whom the individual is caring.*

2.25 *(c) "Instrumental activities of daily living" has the meaning given in section*

2.26 *256B.0659, subdivision 1, paragraph (i).*

2.27 *(d) "Mentally or physically impaired person" means a person who is a resident of*

2.28 *this state and who requires assistance with two or more instrumental activities of daily*

2.29 *living as certified in writing by a physician, a physician assistant, or an advanced*

2.30 *practice*

2.31 *registered nurse licensed to practice in this state.*

2.32 *(e) "Relative" means a spouse, parent, grandparent, child, grandchild, sibling, uncle,*

2.33 *aunt, nephew, or niece of the mentally or physically impaired person. Relative includes*

2.34 *half, step, and in-law relationships.*

3.1 *(f) "Temporary family health care dwelling" means a mobile residential dwelling*

3.2 *providing an environment facilitating a caregiver's provision of care for a mentally or*

3.3 *physically impaired person that meets the requirements of subdivision 2.*

3.4 **Subd. 2. Temporary family health care dwelling.** *A temporary family health*

3.5 *care dwelling must:*

3.6 *(1) be primarily assembled at a location other than its site of installation;*

3.7 *(2) be no more than 300 gross square feet;*

3.8 *(3) not be attached to a permanent foundation;*

3.9 *(4) be universally designed and meet state-recognized accessibility standards;*

3.10 *(5) provide access to water and electric utilities either by connecting to the utilities*

3.11 *that are serving the principal dwelling on the lot or by other comparable means;*

3.12 *(6) have exterior materials that are compatible in composition, appearance, and*

- 3.13 durability to the exterior materials used in standard residential construction;
- 3.14 (7) have a minimum insulation rating of R-15;
- 3.15 (8) be able to be installed, removed, and transported by a one-ton pickup truck
- 3.16 as defined in section 168.002, subdivision 21b, a truck as defined in section 168.002,
- 3.17 subdivision 37, or a truck tractor as defined in section 168.002, subdivision 38;
- 3.18 (9) be built to either Minnesota Rules, chapter 1360 or 1361, and contain an
- 3.19 Industrialized Buildings Commission seal and data plate or to American National
- 3.20 Standards Institute Code 119.2; and
- 3.21 (10) be equipped with a backflow check valve.
- 3.22 **Subd. 3. Temporary dwelling permit; application.** (a) Unless the county has
- 3.23 designated temporary family health care dwellings as permitted uses, a temporary family
- 3.24 health care dwelling is subject to the provisions in this section. A temporary family health
- 3.25 care dwelling that meets the requirements of this section cannot be prohibited by a local
- 3.26 ordinance that regulates accessory uses or recreational vehicle parking or storage.
- 3.27 (b) The caregiver or relative must apply for a temporary dwelling permit from the
- 3.28 county. The permit application must be signed by the primary caregiver, the owner of the
- 3.29 property on which the temporary family health care dwelling will be located, and the
- 3.30 resident of the property if the property owner does not reside on the property, and
include:
- 3.31 (1) the name, address, and telephone number of the property owner, the resident of
- 3.32 the property if different from the owner, and the primary caregiver responsible for the
care
- 3.33 of the mentally or physically impaired person; and the name of the mentally or physically
- 3.34 impaired person who will live in the temporary family health care dwelling;
- 3.35 (2) proof of the provider network from which the mentally or physically impaired
- 3.36 person may receive respite care, primary care, or remote patient monitoring services;
- 4.1 (3) a written certification that the mentally or physically impaired person requires
- 4.2 assistance with two or more instrumental activities of daily living signed by a physician,
- 4.3 a physician assistant, or an advanced practice registered nurse licensed to practice in
- 4.4 this state;
- 4.5 (4) an executed contract for septic service management or other proof of adequate
- 4.6 septic service management;
- 4.7 (5) an affidavit that the applicant has provided notice to adjacent property owners
- 4.8 and residents of the application for the temporary dwelling permit; and
- 4.9 (6) a general site map to show the location of the temporary family health care
- 4.10 dwelling and other structures on the lot.
- 4.11 (c) The temporary family health care dwelling must be located on property where the
- 4.12 caregiver or relative resides. A temporary family health care dwelling must comply with
- 4.13 all setback requirements that apply to the primary structure and with any maximum floor
- 4.14 area ratio limitations that may apply to the primary structure. The temporary family
health
- 4.15 care dwelling must be located on the lot so that septic services and emergency vehicles
- 4.16 can gain access to the temporary family health care dwelling in a safe and timely
manner.
- 4.17 (d) A temporary family health care dwelling is limited to one occupant who is a
- 4.18 mentally or physically impaired person. The person must be identified in the application.

- 4.19 Only one temporary family health care dwelling is allowed on a lot.
- 4.20 (e) Unless otherwise provided, a temporary family health care dwelling installed
- 4.21 under this section must comply with all applicable state law and local ordinances.
- 4.22 Subd. 4. **Initial permit term; renewal.** The initial temporary dwelling permit is
- 4.23 valid for six months. The applicant may renew the permit once for an additional six
- 4.24 months.
- 4.24 Subd. 5. **Inspection.** The county may require that the permit holder provide
- 4.25 evidence of compliance with this section as long as the temporary family health care
- 4.26 dwelling remains on the property. The county may inspect the temporary family health
- 4.27 care dwelling at reasonable times convenient to the caregiver to determine if the
- 4.28 temporary
- 4.28 family health care dwelling is occupied and meets the requirements of this section.
- 4.29 Subd. 6. **Revocation of permit.** The county may revoke the temporary dwelling
- 4.30 permit if the permit holder violates any requirement of this section. If the county revokes
- 4.31 a
- 4.31 permit, the permit holder has 60 days from the date of revocation to remove the
- 4.32 temporary
- 4.32 family health care dwelling.
- 4.33 Subd. 7. **Fee.** Unless otherwise specified by an action of the county board, the
- 4.34 county may charge a fee of up to \$100 for the initial permit and up to \$50 for a renewal
- 4.35 of the permit.
- 5.1 Subd. 8. **No public hearing required; application of section 15.99.** (a) Due to the
- 5.2 time-sensitive nature of issuing a temporary dwelling permit for a temporary family
- 5.3 health
- 5.3 care dwelling, the county does not have to hold a public hearing on the application.
- 5.4 (b) The procedures governing the time limit for deciding an application for the
- 5.5 temporary dwelling permit under this section are governed by section 15.99, except as
- 5.6 provided in this section. The county has 15 days to issue a permit requested under this
- 5.7 section or to deny it, except that if the county board holds regular meetings only once per
- 5.8 calendar month the county has 30 days to issue a permit requested under this section
- 5.9 or to deny it. If the county receives a written request that does not contain all required
- 5.10 information, the applicable 15-day or 30-day limit starts over only if the county sends
- 5.11 written notice within five business days of receipt of the request telling the requester what
- 5.12 information is missing. The county cannot extend the period of time to decide.
- 5.13 Subd. 9. **Opt-out.** A county may by resolution opt-out of the requirements of
- 5.14 this section.
- 5.15 Sec. 3. **[462.3593] TEMPORARY FAMILY HEALTH CARE DWELLINGS.**
- 5.16 Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms
- 5.17 have the meanings given.
- 5.18 (b) "Caregiver" means an individual 18 years of age or older who:
- 5.19 (1) provides care for a mentally or physically impaired person; and
- 5.20 (2) is a relative, legal guardian, or health care agent of the mentally or physically
- 5.21 impaired person for whom the individual is caring.
- 5.22 (c) "Instrumental activities of daily living" has the meaning given in section
- 5.23 256B.0659, subdivision 1, paragraph (i).

- 5.24 (d) "Mentally or physically impaired person" means a person who is a resident of
5.25 this state and who requires assistance with two or more instrumental activities of daily
5.26 living as certified in writing by a physician, a physician assistant, or an advanced
5.27 practice
5.27 registered nurse licensed to practice in this state.
5.28 (e) "Relative" means a spouse, parent, grandparent, child, grandchild, sibling, uncle,
5.29 aunt, nephew, or niece of the mentally or physically impaired person. Relative includes
5.30 half, step, and in-law relationships.
5.31 (f) "Temporary family health care dwelling" means a mobile residential dwelling
5.32 providing an environment facilitating a caregiver's provision of care for a mentally or
5.33 physically impaired person that meets the requirements of subdivision 2.
5.34 **Subd. 2. Temporary family health care dwelling.** A temporary family health
5.35 care dwelling must:
6.1 (1) be primarily assembled at a location other than its site of installation;
6.2 (2) be no more than 300 gross square feet;
6.3 (3) not be attached to a permanent foundation;
6.4 (4) be universally designed and meet state-recognized accessibility standards;
6.5 (5) provide access to water and electric utilities either by connecting to the utilities
6.6 that are serving the principal dwelling on the lot or by other comparable means;
6.7 (6) have exterior materials that are compatible in composition, appearance, and
6.8 durability to the exterior materials used in standard residential construction;
6.9 (7) have a minimum insulation rating of R-15;
6.10 (8) be able to be installed, removed, and transported by a one-ton pickup truck
6.11 as defined in section 168.002, subdivision 21b, a truck as defined in section 168.002,
6.12 subdivision 37, or a truck tractor as defined in section 168.002, subdivision 38;
6.13 (9) be built to either Minnesota Rules, chapter 1360 or 1361, and contain an
6.14 Industrialized Buildings Commission seal and data plate or to American National
6.15 Standards Institute Code 119.2; and
6.16 (10) be equipped with a backflow check valve.
6.17 **Subd. 3. Temporary dwelling permit; application.** (a) Unless the municipality has
6.18 designated temporary family health care dwellings as permitted uses, a temporary family
6.19 health care dwelling is subject to the provisions in this section. A temporary family health
6.20 care dwelling that meets the requirements of this section cannot be prohibited by a local
6.21 ordinance that regulates accessory uses or recreational vehicle parking or storage.
6.22 (b) The caregiver or relative must apply for a temporary dwelling permit from the
6.23 municipality. The permit application must be signed by the primary caregiver, the owner
6.24 of the property on which the temporary family health care dwelling will be located, and
6.25 the
6.25 resident of the property if the property owner does not reside on the property, and
6.26 include:
6.26 (1) the name, address, and telephone number of the property owner, the resident of
6.27 the property if different from the owner, and the primary caregiver responsible for the
6.28 care
6.28 of the mentally or physically impaired person; and the name of the mentally or physically
6.29 impaired person who will live in the temporary family health care dwelling;
6.30 (2) proof of the provider network from which the mentally or physically impaired

6.31 person may receive respite care, primary care, or remote patient monitoring services;
6.32 (3) a written certification that the mentally or physically impaired person requires
6.33 assistance with two or more instrumental activities of daily living signed by a physician,
6.34 a physician assistant, or an advanced practice registered nurse licensed to practice in
6.35 this state;
7.1 (4) an executed contract for septic service management or other proof of adequate
7.2 septic service management;
7.3 (5) an affidavit that the applicant has provided notice to adjacent property owners
7.4 and residents of the application for the temporary dwelling permit; and
7.5 (6) a general site map to show the location of the temporary family health care
7.6 dwelling and other structures on the lot.
7.7 (c) The temporary family health care dwelling must be located on property where the
7.8 caregiver or relative resides. A temporary family health care dwelling must comply with
7.9 all setback requirements that apply to the primary structure and with any maximum floor
7.10 area ratio limitations that may apply to the primary structure. The temporary family
7.11 health
7.12 care dwelling must be located on the lot so that septic services and emergency vehicles
7.13 can gain access to the temporary family health care dwelling in a safe and timely
7.14 manner.
7.15 (d) A temporary family health care dwelling is limited to one occupant who is a
7.16 mentally or physically impaired person. The person must be identified in the application.
7.17 Only one temporary family health care dwelling is allowed on a lot.
7.18 (e) Unless otherwise provided, a temporary family health care dwelling installed
7.19 under this section must comply with all applicable state law, local ordinances, and
7.20 charter
7.21 provisions.
7.22 **Subd. 4.Initial permit term; renewal.** The initial temporary dwelling permit is
7.23 valid for six months. The applicant may renew the permit once for an additional six
7.24 months.
7.25 **Subd. 5.Inspection.** The municipality may require that the permit holder provide
7.26 evidence of compliance with this section as long as the temporary family health care
7.27 dwelling remains on the property. The municipality may inspect the temporary family
7.28 health care dwelling at reasonable times convenient to the caregiver to determine if the
7.29 temporary family health care dwelling is occupied and meets the requirements of this
7.30 section.
7.31 **Subd. 6.Revocation of permit.** The municipality may revoke the temporary
7.32 dwelling permit if the permit holder violates any requirement of this section. If the
7.33 municipality revokes a permit, the permit holder has 60 days from the date of revocation
7.34 to remove the temporary family health care dwelling.
7.35 **Subd. 7.Fee.** Unless otherwise provided by ordinance, the municipality may
7.36 charge
7.37 a fee of up to \$100 for the initial permit and up to \$50 for a renewal of the permit.
7.38 **Subd. 8.No public hearing required; application of section 15.99.** (a) Due to the
7.39 time-sensitive nature of issuing a temporary dwelling permit for a temporary family
7.40 health
7.41 care dwelling, the municipality does not have to hold a public hearing on the application.

- 8.1 (b) The procedures governing the time limit for deciding an application for the
 8.2 temporary dwelling permit under this section are governed by section 15.99, except as
 8.3 provided in this section. The municipality has 15 days to issue a permit requested under
 8.4 this section or to deny it, except that if the statutory or home rule charter city holds
regular
 8.5 meetings only once per calendar month the statutory or home rule charter city has 30
days
 8.6 to issue a permit requested under this section or to deny it. If the municipality receives a
 8.7 written request that does not contain all required information, the applicable 15-day or
 8.8 30-day limit starts over only if the municipality sends written notice within five business
 8.9 days of receipt of the request telling the requester what information is missing. The
 8.10 municipality cannot extend the period of time to decide.
 8.11 Subd. 9. **Opt-out.** A municipality may by ordinance opt-out of the requirements
 8.12 of this section.
- 8.13 Sec. 4. **EFFECTIVE DATE.**
 8.14 This act is effective September 1, 2016, and applies to temporary dwelling permit
 8.15 applications made under this act on or after that date.

DONATION OF SURPLUS EQUIPMENT

- 1.1 *A bill for an act*
 1.2 *relating to local government; permitting local governments to donate certain*
 1.3 *surplus equipment to nonprofit organizations; creating an exception to tort*
 1.4 *liability; amending Minnesota Statutes 2014, section 466.03, by adding a*
 1.5 *subdivision; proposing coding for new law in Minnesota Statutes, chapter 471.*
 1.6 *BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:*
- 1.7 *Section 1. Minnesota Statutes 2014, section 466.03, is amended by adding a*
 1.8 *subdivision to read:*
 1.9 *Subd. 25. **Surplus equipment donated.** Any tort claim against a municipality*
 1.10 *resulting from the use of surplus equipment donated by the municipality to a nonprofit*
 1.11 *organization under section 471.3459, unless the claim is a direct result of fraud or*
 1.12 *intentional misrepresentation.*
- 1.13 *Sec. 2. **[471.3459] DONATION OF SURPLUS EQUIPMENT.***
 1.14 *Subdivision 1. **Definitions.** (a) For the purposes of this section, the following*
terms
 1.15 *have the meanings given them.*
 1.16 *(b) "Local government" means a county, home rule or statutory city, town, or joint*
 1.17 *powers entity formed by any of these local governmental units.*
 1.18 *(c) "Nonprofit organization" means an organization formed under section 501(c)(3)*
 1.19 *of the Internal Revenue Code.*

- 1.20 (d) "Surplus equipment" means equipment used by a local government public works
 1.21 department, and cellular phones and emergency medical and firefighting equipment that
 is
 1.22 no longer needed by the local government because it does not meet industry standards for
 1.23 emergency medical services, police, or fire departments or has minimal or no resale
value.
 2.1 Subd. 2. **Donation.** A local government may donate surplus equipment to one or
 2.2 more nonprofit organizations. Before the local government makes any donations, it must
 2.3 adopt a policy on how it will determine what equipment is surplus eligible for donation
 2.4 and how it will determine which nonprofit organizations may receive donations. The
 2.5 policy must address the obligations of the local government to disclose to the nonprofit
 2.6 that the surplus equipment may be defective and cannot be relied upon for safety
purposes.

BODY CAMERAS

- 1.1 A bill for an act
 1.2 relating to data practices; classifying portable recording system data; establishing
 1.3 requirements for the destruction of data; requiring written policies and
 1.4 procedures; imposing requirements on vendors; providing for damage awards;
 1.5 requiring a legislative auditor review; amending Minnesota Statutes 2014,
 1.6 section 13.82, subdivisions 6, 7, 15; Minnesota Statutes 2015 Supplement,
 1.7 section 13.82, subdivision 2; proposing coding for new law in Minnesota
 1.8 Statutes, chapters 13; 626.
 1.9 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:**
- 1.10 Section 1. Minnesota Statutes 2015 Supplement, section 13.82, subdivision 2, is
 1.11 amended to read:
 1.12 Subd. 2. **Arrest data.** The following data created or collected by law enforcement
 1.13 agencies which document any actions taken by them to cite, arrest, incarcerate or
 1.14 otherwise substantially deprive an adult individual of liberty shall be public at all times
 1.15 in the originating agency:
 1.16 (a) time, date and place of the action;
 1.17 (b) any resistance encountered by the agency;
 1.18 (c) any pursuit engaged in by the agency;
 1.19 (d) whether any weapons were used by the agency or other individual;
 1.20 (e) the charge, arrest or search warrants, or other legal basis for the action;
 1.21 (f) the identities of the agencies, units within the agencies and individual persons
 1.22 taking the action;
 1.23 (g) whether and where the individual is being held in custody or is being incarcerated
 1.24 by the agency;
 1.25 (h) the date, time and legal basis for any transfer of custody and the identity of the
 1.26 agency or person who received custody;
 2.1 (i) the date, time and legal basis for any release from custody or incarceration;
 2.2 (j) the name, age, sex and last known address of an adult person or the age and sex

2.3 of any juvenile person cited, arrested, incarcerated or otherwise substantially deprived
2.4 of liberty;
2.5 (k) whether the agency employed an a portable recording system, automated license
2.6 plate reader, wiretaps or other eavesdropping techniques, unless the release of this
specific
2.7 data would jeopardize an ongoing investigation;
2.8 (l) the manner in which the agencies received the information that led to the arrest
2.9 and the names of individuals who supplied the information unless the identities of those
2.10 individuals qualify for protection under subdivision 17; and
2.11 (m) response or incident report number.

2.12 Sec. 2. Minnesota Statutes 2014, section 13.82, subdivision 6, is amended to read:

2.13 Subd. 6. **Response or incident data.** The following data created or collected by
2.14 law enforcement agencies which document the agency's response to a request for service
2.15 including, but not limited to, responses to traffic accidents, or which describe actions
taken
2.16 by the agency on its own initiative shall be public government data:
2.17 (a) date, time and place of the action;
2.18 (b) agencies, units of agencies and individual agency personnel participating in the
2.19 action unless the identities of agency personnel qualify for protection under subdivision
17;
2.20 (c) any resistance encountered by the agency;
2.21 (d) any pursuit engaged in by the agency;
2.22 (e) whether any weapons were used by the agency or other individuals;
2.23 (f) a brief factual reconstruction of events associated with the action;
2.24 (g) names and addresses of witnesses to the agency action or the incident unless the
2.25 identity of any witness qualifies for protection under subdivision 17;
2.26 (h) names and addresses of any victims or casualties unless the identities of those
2.27 individuals qualify for protection under subdivision 17;
2.28 (i) the name and location of the health care facility to which victims or casualties
2.29 were taken;
2.30 (j) response or incident report number;
2.31 (k) dates of birth of the parties involved in a traffic accident;
2.32 (l) whether the parties involved were wearing seat belts; and
2.33 (m) the alcohol concentration of each driver; and
2.34 (n) whether the agency used a portable recording system to document the agency's
2.35 response or actions.

3.1 Sec. 3. Minnesota Statutes 2014, section 13.82, subdivision 7, is amended to read:

3.2 Subd. 7. **Criminal investigative data.** Except for the data defined in subdivisions
3.3 2, 3, and 6, investigative data collected or created by a law enforcement agency in order
3.4 to prepare a case against a person, whether known or unknown, for the commission of a
3.5 crime or other offense for which the agency has primary investigative responsibility are
3.6 confidential or protected nonpublic while the investigation is active. Inactive
investigative
3.7 data are public unless the release of the data would jeopardize another ongoing

investigation

3.8 or would reveal the identity of individuals protected under subdivision 17. Images and
3.9 recordings, including photographs, video, and audio records, which are part of inactive
3.10 investigative files and which are clearly offensive to common sensibilities are classified
3.11 as private or nonpublic data, provided that the existence of the photographs images and
3.12 recordings shall be disclosed to any person requesting access to the inactive investigative
3.13 file. An investigation becomes inactive upon the occurrence of any of the following
events:

3.14 (a) a decision by the agency or appropriate prosecutorial authority not to pursue
3.15 the case;

3.16 (b) expiration of the time to bring a charge or file a complaint under the applicable
3.17 statute of limitations, or 30 years after the commission of the offense, whichever comes
3.18 earliest; or

3.19 (c) exhaustion of or expiration of all rights of appeal by a person convicted on
3.20 the basis of the investigative data.

3.21 Any investigative data presented as evidence in court shall be public. Data
3.22 determined to be inactive under clause (a) may become active if the agency or
appropriate

3.23 prosecutorial authority decides to renew the investigation.

3.24 During the time when an investigation is active, any person may bring an action in
3.25 the district court located in the county where the data are being maintained to authorize
3.26 disclosure of investigative data. The court may order that all or part of the data relating
to

3.27 a particular investigation be released to the public or to the person bringing the action.
In

3.28 making the determination as to whether investigative data shall be disclosed, the court
3.29 shall consider whether the benefit to the person bringing the action or to the public
3.30 outweighs any harm to the public, to the agency or to any person identified in the data.

3.31 The data in dispute shall be examined by the court in camera.

3.32 Sec. 4. Minnesota Statutes 2014, section 13.82, subdivision 15, is amended to read:

3.33 Subd. 15. **Public benefit data.** Any law enforcement agency may make any data
3.34 classified as confidential or protected nonpublic pursuant to subdivision 7 or as private
3.35 or nonpublic under section 13.825 accessible to any person, agency, or the public if the
4.1 agency determines that the access will aid the law enforcement process, promote public
4.2 safety, or dispel widespread rumor or unrest.

4.3 Sec. 5. **[13.825] PORTABLE RECORDING SYSTEMS.**

4.4 Subdivision 1. **Application; definition.** (a) This section applies to law enforcement
4.5 agencies that maintain a portable recording system for use in investigations, or in
response

4.6 to emergencies, incidents, and requests for service.

4.7 (b) As used in this section:

4.8 (1) "portable recording system" means a device worn by a peace officer that is
4.9 capable of both video and audio recording of the officer's activities and interactions with
4.10 others or collecting digital multimedia evidence as part of an investigation;

4.11 (2) "portable recording system data" means audio or video data collected by a
4.12 portable recording system; and
4.13 (3) "redact" means to blur video or distort audio so that the identity of the subject in
4.14 a recording is obscured sufficiently to render the subject unidentifiable.
4.15 Subd. 2. **Data classification; court-authorized disclosure.** (a) Data collected by a
4.16 portable recording system are private data on individuals or nonpublic data, subject to
4.17 the following:
4.18 (1) data that document the discharge of a firearm by a peace officer in the course
4.19 of duty, if a notice is required under section 626.553, subdivision 2, or the use of force
4.20 by a peace officer that results in substantial bodily harm, as defined in section 609.02,
4.21 subdivision 7a, are public;
4.22 (2) data are public if a subject of the data requests it be made accessible to the public,
4.23 except that, if practicable, (i) data on a subject who is not a peace officer and who does
4.24 not
4.25 consent to the release must be redacted, and (ii) data on a peace officer whose identity is
4.26 protected under section 13.82, subdivision 17, clause (a), must be redacted;
4.27 (3) portable recording system data that are active criminal investigative data are
4.28 governed by section 13.82, subdivision 7, and portable recording system data that are
4.29 inactive criminal investigative data are governed by this section;
4.30 (4) portable recording system data that are public personnel data under section
4.31 13.43, subdivision 2, clause (5), are public; and
4.32 (5) data that are not public data under other provisions of this chapter retain that
4.33 classification.
4.34 (b) A law enforcement agency may redact or withhold access to portions of data
4.35 that are public under this subdivision if those portions of data are clearly offensive to
5.1 common sensibilities.
5.2 (c) Section 13.04, subdivision 2, does not apply to collection of data classified
5.3 by this subdivision.
5.4 (d) Any person may bring an action in the district court located in the county where
5.5 portable recording system data are being maintained to authorize disclosure of data that
5.6 are private or nonpublic under this section or to challenge a determination under
5.7 paragraph
5.8 (b) to redact or withhold access to portions of data because the data are clearly offensive
5.9 to
5.10 common sensibilities. The person bringing the action must give notice of the action to the
5.11 law enforcement agency and subjects of the data, if known. The law enforcement agency
5.12 must give notice to other subjects of the data, if known, who did not receive the notice
5.13 from
5.14 the person bringing the action. The court may order that all or part of the data be
released to
the public or to the person bringing the action. In making this determination, the court
shall
consider whether the benefit to the person bringing the action or to the public outweighs
any harm to the public, to the law enforcement agency, or to a subject of the data and, if
the action is challenging a determination under paragraph (b), whether the data are
clearly

5.15 offensive to common sensibilities. The data in dispute must be examined by the court in
5.16 camera. This paragraph does not affect the right of a defendant in a criminal proceeding
5.17 to
5.17 obtain access to portable recording system data under the Rules of Criminal Procedure.
5.18 **Subd. 3.Retention of data.** (a) Portable recording system data that are not active
5.19 or inactive criminal investigative data and are not described in paragraph (b) must be
5.20 maintained for at least 90 days and destroyed according to the agency's records retention
5.21 schedule approved pursuant to section 138.17.
5.22 (b) Portable recording system data must be maintained for at least one year and
5.23 destroyed according to the agency's records retention schedule approved pursuant to
5.24 section 138.17 if:
5.25 (1) the data document (i) the discharge of a firearm by a peace officer in the course
5.26 of duty if a notice is required under section 626.553, subdivision 2, or (ii) the use of force
5.27 by a peace officer that results in substantial bodily harm; or
5.28 (2) a formal complaint is made against a peace officer related to the incident.
5.29 (c) If a subject of the data submits a written request to the law enforcement agency
5.30 to retain the recording beyond the applicable retention period for possible evidentiary or
5.31 exculpatory use related to the circumstances under which the data were collected, the
5.32 law
5.32 enforcement agency shall retain the recording for an additional time period requested by
5.33 the subject of up to 180 days and notify the requester that the recording will then be
5.34 destroyed unless a new request is made under this paragraph.
6.1 (d) Notwithstanding paragraph (b) or (c), a government entity may retain a recording
6.2 for as long as reasonably necessary for possible evidentiary or exculpatory use related to
6.3 the incident with respect to which the data were collected.
6.4 **Subd. 4.Access by data subjects.** (a) For purposes of this chapter, a portable
6.5 recording system data subject includes the peace officer who collected the data, and any
6.6 other individual or entity, including any other peace officer, regardless of whether the
6.7 officer
6.7 is or can be identified by the recording, whose image or voice is documented in the data.
6.8 (b) An individual who is the subject of portable recording system data has access to
6.9 the data, including data on other individuals who are the subject of the recording. If the
6.10 individual requests a copy of the recording, data on other individuals who do not consent
6.11 to its release must be redacted from the copy. The identity and activities of an on-duty
6.12 peace officer engaged in an investigation or response to an emergency, incident, or
6.13 request
6.13 for service may not be redacted, unless the officer's identity is subject to protection under
6.14 section 13.82, subdivision 17, clause (a).
6.15 **Subd. 5.Inventory of portable recording system technology.** A law enforcement
6.16 agency that uses a portable recording system must maintain the following information,
6.17 which is public data:
6.18 (1) the total number of recording devices owned or maintained by the agency;
6.19 (2) a daily record of the total number of recording devices actually deployed and
6.20 used by officers and, if applicable, the precincts in which they were used;
6.21 (3) the policies and procedures for use of portable recording systems required by
6.22 section 626.8473; and

6.23 (4) the total amount of recorded audio and video data collected by the portable
6.24 recording system and maintained by the agency, the agency's retention schedule for the
6.25 data, and the agency's procedures for destruction of the data.
6.26 **Subd. 6. Use of agency-issued portable recording systems.** While on duty, a peace
6.27 officer may only use a portable recording system issued and maintained by the officer's
6.28 agency in documenting the officer's activities.
6.29 **Subd. 7. Authorization to access data.** (a) A law enforcement agency must comply
6.30 with sections 13.05, subdivision 5, and 13.055 in the operation of portable recording
6.31 systems and in maintaining portable recording system data.
6.32 (b) The responsible authority for a law enforcement agency must establish written
6.33 procedures to ensure that law enforcement personnel have access to the portable
recording
6.34 system data that are not public only if authorized in writing by the chief of police, sheriff,
6.35 or head of the law enforcement agency, or their designee, to obtain access to the data for
a
6.36 legitimate, specified law enforcement purpose.
7.1 **Subd. 8. Sharing among agencies.** (a) Portable recording system data that are not
7.2 public may only be shared with or disseminated to another law enforcement agency, a
7.3 government entity, or a federal agency upon meeting the standards for requesting access
to
7.4 data as provided in subdivision 7.
7.5 (b) If data collected by a portable recording system are shared with another state or
7.6 local law enforcement agency under this subdivision, the agency that receives the data
must
7.7 comply with all data classification, destruction, and security requirements of this section.
7.8 (c) Portable recording system data may not be shared with, disseminated to, sold to,
7.9 or traded with any other individual or entity unless explicitly authorized by this section
7.10 or other applicable law.
7.11 **Subd. 9. Biennial audit.** (a) A law enforcement agency must maintain records
7.12 showing the date and time portable recording system data were collected and the
7.13 applicable classification of the data. The law enforcement agency shall arrange for
7.14 an independent, biennial audit of the data to determine whether data are appropriately
7.15 classified according to this section, how the data are used, and whether the data are
7.16 destroyed as required under this section, and to verify compliance with subdivisions 7
7.17 and 8. If the governing body with jurisdiction over the budget of the agency determines
7.18 that the agency is not complying with this section or other applicable law, the governing
7.19 body may order additional independent audits. Data in the records required under this
7.20 paragraph are classified as provided in subdivision 2.
7.21 (b) The results of the audit are public, except for data that are otherwise classified
7.22 under law. The governing body with jurisdiction over the budget of the law enforcement
7.23 agency shall review the results of the audit. If the governing body determines that there is
7.24 a pattern of substantial noncompliance with this section, the governing body must order
7.25 that operation of all portable recording systems be suspended until the governing body
has
7.26 authorized the agency to reinstate their use. An order of suspension under this paragraph
7.27 may only be made following review of the results of the audit and review of the

applicable

7.28 provisions of this chapter, and after providing the agency and members of the public a
7.29 reasonable opportunity to respond to the audit's findings in a public meeting.

7.30 (c) A report summarizing the results of each audit must be provided to the governing

7.31 body with jurisdiction over the budget of the law enforcement agency and to the

7.32 Legislative Commission on Data Practices and Personal Data Privacy no later than 60

7.33 days following completion of the audit.

7.34 Subd. 10. Notification to BCA. Within ten days of obtaining new surveillance

7.35 technology that expands the type or scope of surveillance capability of a portable

recording

7.36 system device beyond video or audio recording, a law enforcement agency must notify the

8.1 Bureau of Criminal Apprehension that it has obtained the new surveillance technology.

8.2 The notice must include a description of the technology and its surveillance capability

8.3 and intended uses. The notices are accessible to the public and must be available on the

8.4 bureau's Web site.

8.5 Subd. 11. Portable recording system vendor. (a) For purposes of this subdivision,

8.6 "portable recording system vendor" means a person who is not a government entity and

8.7 who provides services for the creation, collection, retention, maintenance, processing, or

8.8 dissemination of portable recording system data for a law enforcement agency or other

8.9 government entity. By providing these services to a government entity, a vendor is subject

8.10 to all of the requirements of this chapter as if it were a government entity.

8.11 (b) A portable recording system vendor that stores portable recording system data in

8.12 the cloud must protect the data in accordance with the security requirements of the

United

8.13 States Federal Bureau of Investigation Criminal Justice Information Services Division

8.14 Security Policy 5.4 or its successor version.

8.15 (c) Subject to paragraph (d), in an action against a vendor under section 13.08 for a

8.16 violation of this chapter, the vendor is liable for presumed damages of \$2,500 or actual

8.17 damages, whichever is greater, and reasonable attorney fees.

8.18 (d) In an action against a vendor that improperly discloses data made not public by this

8.19 chapter or any other statute classifying data as not public, the vendor is liable for

presumed

8.20 damages of \$10,000 or actual damages, whichever is greater, and reasonable attorney

fees.

8.21 Subd. 12. Penalties for violation. In addition to any other remedies provided by

8.22 law, in the case of a willful violation of this section a law enforcement agency is subject

8.23 to exemplary damages of not less than twice the minimum, nor more than twice the

8.24 maximum allowable for exemplary damages under section 13.08, subdivision 1.

8.25 **EFFECTIVE DATE.** This section is effective August 1, 2016. Data collected

8.26 before the effective date of this section must be destroyed, if required by this section, no

8.27 later than 15 days after the date this section becomes effective.

8.28 Sec. 6. **[626.8473] PORTABLE RECORDING SYSTEMS ADOPTION;**

8.29 **WRITTEN POLICY REQUIRED.**

8.30 Subdivision 1. Definition. As used in this section, "portable recording system" has

- 8.31 the meaning provided in section 13.825, subdivision 1.
- 8.32 Subd. 2. **Public comment.** A local law enforcement agency must provide an
- 8.33 opportunity for public comment before it purchases or implements a portable recording
- 8.34 system. At a minimum, the agency must accept public comments submitted electronically
- 9.1 or by mail, and the governing body with jurisdiction over the budget of the law
- enforcement
- 9.2 agency must provide an opportunity for public comment at a regularly-scheduled
- meeting.
- 9.3 Subd. 3. **Written policies and procedures required.** (a) The chief officer of every
- 9.4 state and local law enforcement agency that uses or proposes to use a portable recording
- 9.5 system must establish and enforce a written policy governing its use. In developing and
- 9.6 adopting the policy, the law enforcement agency must provide for public comment and
- 9.7 input as provided in subdivision 2. Use of a portable recording system without adoption
- of
- 9.8 a written policy meeting the requirements of this section is prohibited. The written policy
- 9.9 must be posted on the agency's Web site, if the agency has a Web site.
- 9.10 (b) At a minimum, the written policy must incorporate the following:
- 9.11 (1) the requirements of section 13.825 and other data classifications, access
- 9.12 procedures, retention policies, and data security safeguards that, at a minimum, meet the
- 9.13 requirements of chapter 13 and other applicable law;
- 9.14 (2) procedures for testing the portable recording system to ensure adequate
- 9.15 functioning;
- 9.16 (3) procedures to address a system malfunction or failure, including requirements
- 9.17 for documentation by the officer using the system at the time of a malfunction or failure;
- 9.18 (4) circumstances under which recording is mandatory, prohibited, or at the
- 9.19 discretion of the officer using the system;
- 9.20 (5) circumstances under which a data subject must be given notice of a recording;
- 9.21 (6) circumstances under which a recording may be ended while an investigation,
- 9.22 response, or incident is ongoing;
- 9.23 (7) procedures for the secure storage of portable recording system data and the
- 9.24 creation of backup copies of the data; and
- 9.25 (8) procedures to ensure compliance and address violations of the policy, which
- 9.26 must include, at a minimum, supervisory or internal audits and reviews, and the
- employee
- 9.27 discipline standards for unauthorized access to data contained in section 13.09.
- 9.28 **EFFECTIVE DATE.** This section is effective August 1, 2016, provided that a law
- 9.29 enforcement agency using a portable recording system on that date must adopt the policy
- 9.30 required under this section no later than January 15, 2017.
- 9.31 Sec. 7. **LEGISLATIVE AUDITOR REVIEW.**
- 9.32 Beginning no earlier than January 1, 2019, the legislative auditor is requested to
- 9.33 conduct a comprehensive review of compliance with the requirements of Minnesota
- 9.34 Statutes, sections 13.825 and 626.8473. Data used for purposes of the review must
- 9.35 include the results of the biennial audits required by Minnesota Statutes, section
- 10.1 13.825, subdivision 9, and may also include any other data that, in the judgment of the

- 10.2 legislative auditor, assists in developing a complete understanding of any compliance
10.3 or implementation issues resulting from enactment of those sections. The legislative
10.4 auditor is requested to submit the results of the comprehensive review to the legislature
10.5 no later than January 15, 2020.

2016 LETTERS


MUNICIPAL LEGISLATIVE
COMMISSION

May 19, 2016

Senator Ron Latz
2109 Minnesota Senate Bldg.
St. Paul, MN 55155

Representative Tony Cornish
369 State Office Building
St. Paul, MN 55155

RE: Support for SF 498 - Portable recording system (body camera) data classification, destruction and regulation.

Dear Senator Latz and Representative Cornish:

I am writing on behalf of the Municipal Legislative Commission (MLC), an association of eighteen suburban communities. I serve as the Chair of the MLC Board of Directors, which consists of the Mayors and City Managers from each of our represented cities. On behalf of the MLC, I would like to thank you for your work on SF 498 and express our support for passing this important legislation this session.

The MLC is supportive of our law local enforcement agencies and has encouraged the legislature to consider policies that will allow them to decide whether to equip themselves with body cameras. To that end, we have been and continue to support legislation that will allow data retention and policies for “on-officer” cameras that preserves public safety while protecting the privacy of the public.

We thank you for passing legislation that will establish guidelines for police use of body-worn cameras. We support the default classification of body camera video as private data on individuals, yet allowing for reasonable exceptions. This will allow subjects of data to access the video and share it with the public if they so desire, while keeping the costs of maintaining the data reasonable for our cities. It also strives to strike a necessary balance between the interests of privacy, transparency, and administration.

Once again, thank you for your continued work to get this necessary legislation signed into law.

Sincerely,



James Hovland
Chair, Municipal Legislative Commission
Mayor, City of Edina

CC: Senator Susan Kent
Senator Bill Ingebrigtsen
Representative Brian Johnson
Representative Debra Hilstrom
MLC Legislative Delegation Members
Commissioner Mona Dohman, Department of Public Safety


MUNICIPAL LEGISLATIVE
COMMISSION

April 19, 2016

Representative Steve Drazkowski
591 State Office Building
St. Paul, MN 55155

RE: Concerns with HF 3758 (Drazkowski) Tax increment financing permitted use clarification.

Dear Rep. Drazkowski:

I am writing on behalf of the Municipal Legislative Commission (MLC), an association of eighteen suburban communities. I serve as the Chair of the MLC Board of Directors, which consists of the Mayors and City Managers from each of our represented cities. On behalf of the MLC, I would like to express concerns with HF 3758, which proposes to change TIF pooling limits.

Minnesota law permits increments to be pooled or spent outside of the district on other activities. The amount that may be pooled is, however, subject to percentage limits. Under current practice, a TIF authority can pool up to 25% of tax increments received over the life of a district. HF 3758 would overturn this longstanding practice and significantly restrict the ability of cities to pool TIF revenue. Pooling is important because it helps cities complete complex or phased projects that sometimes require flexibility when faced with unexpected barriers. Also, these changes will be challenging for cities simply making a pooled TIF expenditure in the last year of a district.

While we understand the author's intent with this legislation, we feel that any changes to this complex area of law should be discussed with a broad group of stakeholders before passing legislation. We stand ready to work with you and thank you for the opportunity to comment.

Sincerely,



James Hovland
Chair, Municipal Legislative Commission
Mayor, City of Edina



April 4, 2016

Senator Melissa Franzen
3403 Minnesota Senate Building
St. Paul, MN 55155

RE: Concerns with SF 2694 (Franzen) Modifications to the Interim Ordinance Statute

Dear Senator Franzen:

I am writing on behalf of the Municipal Legislative Commission (MLC), an association of seventeen suburban communities. I serve as the Chair of the MLC Board of Directors, which consists of the Mayors and City Managers from each of our represented cities. On behalf of the MLC, I would like to express concerns with SF 2694, which proposes modifications to Minnesota's interim ordinance statute.

The MLC appreciates the discussions you have had with our member cities and understands your concern that in some instances interim moratoria have placed significant burdens on builders and permit applicants. However, we believe that this proposal would make it more difficult for cities to pass interim moratoriums in response to zoning applications that propose new or unique land uses, or have the potential to negatively impact other residents in ways not anticipated by a zoning ordinance.

The 2/3 supermajority requirement unnecessarily infringes on local control.

Section 1 of the bill would require that 2/3 of the members of a city council vote to approve any interim moratorium, even those unrelated to residential housing. We believe that this provision is not necessary to address the concerns related to residential construction, and significantly infringes on the ability of elected city council members and mayors to act in the best interest of their communities. The MLC respectfully requests that this provision be removed from the bill.

The term "related to housing" is unclear and could apply to many issues beyond residential construction.

The proponents of this legislation have raised concerns with how interim moratoria can impact residential construction projects, but the bill applies the additional notice requirements to "activities related to housing." The MLC believes that this phrase is unclear, and would greatly expand the application of the notice provision. For example, would a proposed commercial development adjacent to a housing development be an activity related to housing? Would a permit to install a wind turbine, cellular tower, or small wireless facility network in a residential subdivision be an activity related to housing?

If this bill is to be enacted, the MLC feels that, at a minimum, this definition must be refined so that it applies only to the concerns raised by the representatives of the residential construction industry. MLC would be happy to work with you and the bill proponents on language to accomplish this goal.

The 30-day notice period would allow projects to be permitted without the review requested by the city council.

The MLC understands the intent of the 30-day public notice period, and believes that it can be helpful to foster discussion with interested parties if there are concerns about a moratorium. However, the 30-day window would allow applicants to submit permits before the moratorium is enacted, placing that application outside of the new regulations that are developed as a result of the moratorium. For example, if a city enacted a moratorium to develop zoning regulations for the placement of wireless facilities on apartment buildings, an application for such a use made during the 30-day period would be exempt from any new zoning regulations.

We believe that the 30-day notice period should be clarified so that in the event a moratorium is adopted after the public hearing, any applications received during the notice period will be subject to the moratorium. This will allow interested groups the opportunity to discuss whether a moratorium is necessary before it is imposed, but not create a window of opportunity for new uses to be permitted before the city is able to make the necessary changes to the zoning ordinance. Additionally, we would encourage the Senate to reduce the notice period to 10 days, as was done in the House bill. We believe this strikes a better balance between the need for public notice and the need for government to have flexibility.

Thank you again for the opportunity to comment on this legislation. We stand ready to work with you and other stakeholders to craft legislation that can work for all parties and the citizens of Minnesota.

Sincerely,

A handwritten signature in black ink, appearing to read 'James Hovland', written over a horizontal line.

James Hovland
Chair, Municipal Legislative Commission
Mayor, City of Edina


MUNICIPAL LEGISLATIVE
COMMISSION

March 14, 2016

Senator Ann Rest
Minnesota Senate Bldg., Room 3209
St. Paul, MN 55155

RE: Support for SF 2249 (Rest) Restoration of the sales tax exemption for joint powers entities.

Dear Senator Rest:

I am writing on behalf of the Municipal Legislative Commission (MLC), an association of seventeen suburban communities. I serve as the Chair of the MLC Board of Directors, which consists of the Mayors and City Managers from each of our represented cities. On behalf of the MLC, I would like to express our support for SF 2249, which would retroactively accelerate the effective date of the sales tax exemption for joint powers entities and special districts to January 1, 2016.

The MLC thanks you for your sound tax policy effort in restoring the local government sales tax exemption in 2013. We also thank you for your subsequent work to extend the exemption to all local units of government, including joint powers entities and special districts, to January 1, 2016. This important correction to the 2013 law creates the certainty that cities will not be penalized for working together to deliver services in a cost-effective manner.

It was unfortunate that the 2015 Legislature delayed the effective date for another year, especially in light of the fact that the state ended FY 2015 with nearly a billion dollar surplus. This delay made purchases by local governments more expensive and unnecessarily increased the cost of doing business; costs ultimately borne by local taxpayers.

The 17 member cities of the MLC strongly support your legislation to retroactively restore the effective date of the sales tax exemption for joint powers entities and special districts to January 1, 2016. The creation of joint powers entities should be encouraged by the Legislature as a means for cities, counties, and other units of government to provide services in a cost-effective manner. Restoring the effective date of the sales tax exemption is sound tax policy and reduces the cost of doing business for local governments and taxpayers.

For these reasons, the MLC strongly supports SF2249. Thank you for your continued support of our member cities.

Sincerely,



James Hovland
Chair, Municipal Legislative Commission
Mayor, City of Edina

SUBURBAN TRANSPORTATION LETTER

A transportation system that works for everyone

As mayors of communities in the Twin Cities metro area, we know firsthand how important a well-functioning transportation system is to our residents and businesses. When people and goods move efficiently, the economy benefits. When frequent bus or train connections are widely available, people that can't drive, or choose not to drive, have affordable access to jobs, education, and other key destinations. When safe bicycle and pedestrian connections are the norm, our neighborhoods and our Main Streets have much more vitality.

Like the metropolitan region as a whole, our cities are growing and facing real demands for transportation system improvements. Two fundamental transportation needs are looming: 1) adequate maintenance of our existing infrastructure--from roads and bridges to transit systems and sidewalks--and 2) the expansion of options for transportation by modes other than use of a motor vehicle.

Cost estimates for meeting these key needs across the state are well documented. Extensive plans that identify where and how to improve roads and bridges, expand bus service, and retrofit streets to better accommodate people bicycling and walking are ready for implementation. And these plans recognize that transportation isn't one road or bus line or a single rail expansion--it's a system and the needs of that system vary depending on the location.

Whether in our metro cities, suburbs, or Greater Minnesota communities, the constant is a lack of adequate funding to turn our good planning into a better transportation system that improves the lives of everyday Minnesotans.

As local elected officials we hear daily about the shortcomings of our current system: potholes, degraded road surfaces, traffic delays (both chronic and unpredictable), the inability to get to a new job, unsafe conditions for drivers, walkers, bicyclists, and for community members with disabilities. Every local elected official can tell you exactly what's at stake if the Minnesota Legislature stalls on transportation funding again this year. We can point to local roads and aging bridges urgently needing maintenance and preservation, buses filled to capacity, and businesses clamoring for new light rail or bus rapid transit lines to get built so they can attract and retain talented employees. We've seen millennials and baby boomers alike increasingly looking to live and work in places where owning a car is not a necessity. This observation is affirmed in recent commercial realty data on where millennials want to live and that is where they have easy access to transit, the ability to use other non-motorized systems like sidewalks and bike paths and being close to amenities.

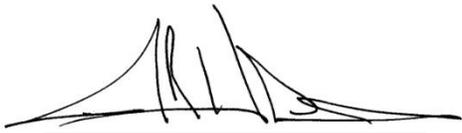
Unfortunately, transportation discussions at the state level have been stymied by larger debates about overall levels of spending and taxes, and by some legislators pitting metro vs. Greater Minnesota. As long as that is the central dialogue, the transportation needs of local communities will go unaddressed, regardless of geographic location, and our state and its residents will suffer the consequences of inaction.

We urge state legislators to think about residents and businesses throughout the state and pass substantial, comprehensive, long-term funding for all modes of transportation. While transportation has been touted as a top priority, and both the House and Senate are in general agreement about the size of the problem, the gulf between funding approaches has resulted in little action: the House relying on general fund revenues, and the Senate relying heavily on increased transportation taxes (gas tax, metro sales tax). A solution to these differing views is essential as any further delays in addressing Minnesota's transportation needs will only hold us back and raise the price tag of urgent projects in our communities and across the state.

With spring upon us, we recommend a gardener's approach that relies on both annuals and perennials. We support prioritizing a portion of the state surplus for transportation, while at the same time increasing dedicated transportation taxes that can be counted on over the years ahead in order to plan, build, and maintain transportation projects and systems that will make us competitive and safe.

An effective and efficient multi-modal transportation system is critical not only to improving mobility but also to advancing local economies, providing access to opportunity, and enhancing quality of life here in the metro and in Greater Minnesota alike. It's time for smart investments in all modes. It's time to get the job done.

Sincerely,



James Hovland, Mayor
City of Edina



Elizabeth Kautz, Mayor
City of Burnsville



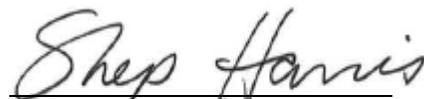
Mike Maguire, Mayor
City of Eagan



Sandy Martin, Mayor
City of Shoreview



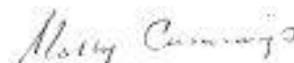
Terry Schneider, Mayor
City of Minnetonka



Shep Harris, Mayor
City of Golden Valley

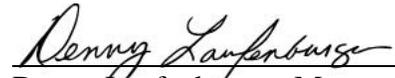


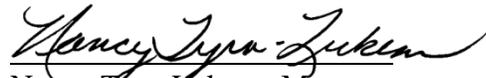
Nora Slawik, Mayor
City of Maplewood



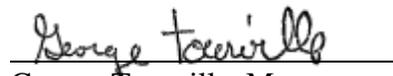
Molly Cummings, Mayor
City of Hopkins

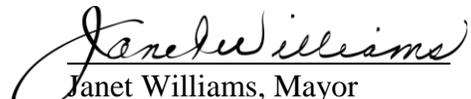

Jo Emerson, Mayor
City of White Bear Lake


Denny Laufenburger, Mayor
City of Chanhassen


Nancy Pyra-Lukens, Mayor
City of Eden Prairie


Bill Mars, Mayor
City of Shakopee


George Tourville, Mayor
City of Inver Grove Heights


Janet Williams, Mayor
City of Savage