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**Senate**

**State of Minnesota**

**S.F. No. 2646 - Organ And Tissue Donation Driver  
Education**

**Author:** Senator Charles W. Wiger

**Prepared by:** Bonnie Berezovsky, Senate Counsel (651/296-9191) *BB*  
Krista Boyd, Fiscal Analyst (651/296-7681) *KB*

**Date:** March 16, 2006

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**Section 1** directs the Commissioner of Public Safety to adopt rules requiring that driver education courses include a minimum of 30 minutes of instruction relating to organ and tissue donation.

**Section 2** directs the commissioner to amend the current rule, using the procedure for adopting exempt rules, to include requiring driver education courses to include a minimum of 30 minutes of instruction on organ and tissue donation.

BB/KB:rer

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# Senate

State of Minnesota

## S.F. No. 2750 - Eminent Domain (Second Engrossment)

**Author:** Senator Thomas M. Bakk

**Prepared by:** Bonnie Berezovsky, Senate Counsel (651/296-9191) *BB*  
Krista Boyd, Fiscal Analyst (651/296-7681) *KB*

**Date:** March 15, 2006

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This bill contains provisions relating to the use of eminent domain power and rights and remedies of property owners.

**Section 1** provides that **Minnesota Statutes, chapter 117**, preempts all other laws that govern eminent domain proceedings, unless they do not diminish or deny substantive and procedural rights and protections under **chapter 117**. The power to exercise eminent domain must be expressly granted and cannot be implied.

**Section 2** modifies and clarifies definitions. It also defines the terms "condemning authority," "abandoned property," "blighted area," "dilapidated building," "environmentally contaminated area," "public nuisance," "public service corporation," and "public use" or "public purpose." In particular, for purposes of the exercise of eminent domain power, "public use" or "public purpose" would mean:

- (1) possession, occupation, ownership, and enjoyment of land by the general public;
- (2) creation or functioning of a public service corporation; or
- (3) mitigation of blight, remediation of an environmentally contaminated area, reduction of abandoned property, or removal of a public nuisance.

The public benefits of economic development would not by themselves constitute a public use or purpose.

**Section 3** establishes special provisions dealing with the condemnation of land for blight mitigation and contamination remediation.

**Subdivision 1** provides that in taking property to mitigate blight, a condemning authority may not take nondilapidated buildings unless it is absolutely necessary in order to remove dilapidated buildings.

**Subdivision 2** prohibits condemning authorities from taking uncontaminated parcels as part of a taking to remediate environmental contamination unless it is absolutely necessary in order to complete remediation.

**Subdivision 3** provides that if a developer involved in a redevelopment project contributed to the blight or environmental contamination, the condition contributed to by the developer must not be used in determining the existence of blight or environmental contamination.

**Section 4** amends the statute dealing with appraisal and negotiation requirements applicable to acquisition of property for transportation purposes to expand it to include all eminent domain proceedings. Amendments are included with respect to the exchange of appraisals and the applicable time periods. The current \$1,500 cap on owner appraisals would be applicable to single-family and two-family residential property, agricultural property, and minimum damage acquisitions, but for other types of property the cap is increased to \$5,000. In addition, new language is added under which an appraisal must not be used or considered in a condemnation commissioners' hearing, nor may the appraiser be allowed to testify, unless a copy of the appraiser's written report was provided to the opposing party at least five days before the hearing.

**Section 5** adds new requirements relating to local government public hearings before commencing eminent domain proceedings.

**Subdivision 1** defines the terms "local government" and "local government agency."

**Subdivision 2** provides that before a local government or local government agency may commence an eminent domain proceeding, a public hearing must be held. Notice requirements are specified. In addition, interested persons must be allowed reasonable time to present relevant testimony at the hearing, proceedings must be recorded and available to the public for review and comment, and the local government must vote on the question of whether to authorize the local government or local government agency to use eminent domain to acquire the property at its next regular meeting that is at least 30 days after the public hearing.

**Subdivision 3** contains provisions that must be addressed in resolutions authorizing eminent domain when the taking is for blight mitigation, remediation of environmental contaminations, abandoned property, or removing a public nuisance.

**Section 6** requires the notice of an eminent domain petition to include provisions regarding the procedures for challenging the public purpose, necessity, and authority for the taking.

**Section 7** specifies the showing and evidentiary standard requirements applicable in cases where the taking is for the mitigation of a blighted area, remediation of an environmentally contaminated area, reducing abandoned property, or removing a public nuisance. The condemning

authority must show by a preponderance of the evidence that the taking is necessary and for the designated public use. A court order approving the purpose and necessity of a taking must be appealed within 60 days of service of the order.

**Section 8** requires the court to award reasonable attorney fees and other related costs and expenses in cases where the court determines that a taking is not for a public purpose or is unlawful.

**Section 9** increases the appraisal fees that may be awarded, consistent with the raise in the caps under **section 4**.

**Section 10** requires payment of just compensation by a political subdivision or local zoning authority that requires, as a condition for issuance of a permit, removal of a legal nonconforming use. Compensation need not be paid if a proposed structure cannot be built without moving the nonconforming use.

**Section 11** contains new language dealing with compensation for loss of a going concern.

**Subdivision 1** defines "going concern" and "owner." The definition of "owner" includes lessees who operate a business on real property that is the subject of an eminent domain proceeding, which is consistent with current law.

**Subdivision 2** specifies the circumstances under which an owner must be compensated for loss of a going concern. It is applicable if the owner establishes that the business or trade has been destroyed as a direct result of the taking; the loss cannot be reasonably prevented by relocating the business or trade; and compensation for the loss will not duplicate compensation otherwise awarded to the owner.

**Subdivision 3** specifies the procedure for seeking compensation for loss of a going concern. The court must determine whether a going concern has been taken (this is consistent with current case law). If the court determines that there is a taking, damages must be determined by the commissioners and must be reported as a separate award. An award for a loss of going concern may be appealed in accordance with **section 117.145**, which is the current law dealing with appeals of commissioners' awards.

**Section 12** establishes minimum compensation in cases where an owner must relocate. The amount of damages must, at a minimum, be sufficient to purchase a similar house or building and not less than the condemning authority's payment or deposit.

**Section 13** provides that a condemning authority may not require an owner to accept substitute or replacement property as part of compensation. Also, a condemning authority may not require an owner to accept the return of property.

**Section 14** contains exemptions for public service corporations.

**Section 15** allows the court to award reasonable attorney fees and costs in cases where the final judgment or award for damages is at least 20 percent greater than the last written offer of compensation made by the condemning authority before filing the petition.

**Sections 16 to 18** modify provisions dealing with reimbursement for reestablishment expenses of a displaced business. The most significant substantive change from current law is that the acquiring authority would be mandated to reimburse displaced businesses for expenses actually incurred up to a maximum of \$50,000 (current law permits but does not require this).

**Sections 19 and 20** amend notice requirements and appeals for eminent domain proceedings by the Department of Transportation, consistent with the changes made in **section 6**.

**Section 21** strikes language dealing with public hearing requirements under chapter 469, consistent with the new requirements that would apply to all local government eminent domain proceedings under **section 5**.

**Section 22** instructs the Revisor to change the phrase "right of eminent domain" to "power of eminent domain" wherever it appears in Minnesota Statutes and Rules.

**Section 23** provides that the act is effective the day following final enactment and applies to condemnation proceedings for which service of notice of the petition under section 117.055 is made on or after March 1, 2006.

BB/KB:rer

Senators Wiger, Murphy, Marty, Scheid and Ruud introduced—  
S.F. No. 2646: Referred to the Committee on Transportation.

1 A bill for an act  
2 relating to drivers' licenses; requiring at least 30 minutes of driver education on  
3 organ and tissue donation; amending Minnesota Statutes 2004, section 171.0701.

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

5 Section 1. Minnesota Statutes 2004, section 171.0701, is amended to read:

6 **171.0701 DRIVER EDUCATION; ORGAN AND TISSUE DONATION.**

7 The commissioner shall adopt rules requiring a minimum of 30 minutes of  
8 instruction relating to organ and tissue donations and the provisions of section 171.07,  
9 subdivision 5, for persons enrolled in driver education programs offered at public schools,  
10 private schools, and commercial driver training schools.

11 **Sec. 2. RULE CHANGE.**

12 Pursuant to Minnesota Statutes, section 14.388, the commissioner shall amend  
13 Minnesota Rules, part 7411.0515, subpart 2, to provide that driver education programs  
14 offered at public schools, private schools, and commercial driver training schools must  
15 include a minimum of 30 minutes of instruction relating to organ and tissue donations and  
16 the provisions of Minnesota Statutes, section 171.07, subdivision 5.

1.1 Senator ..... moves to amend S.F. No. 2646 as follows:

1.2 Page 1, after line 10 insert:

1.3 "Sec. 2. Laws 2005, First Special Session chapter 6, article 3, section 109, is  
1.4 amended to read:

1.5 Sec. 109. [EFFECTIVE DATE; EXPIRATION.]

1.6 Sections 91 to 98 are effective the day following final enactment and do not expire  
1.7 ~~on June 10, 2006.~~ "

1.8 Renumber the sections in sequence and correct the internal references

1.9 Amend the title accordingly

## Testimony in Support of S.F. No. 2646: Organ and Tissue Donation Education

Michael Anderson, Rachel Payne, Patrick Raines, and Christopher Staral  
Mounds Park Academy Public Policy Class  
Ms. Maureen Conway, Teacher and Advisor

A bill for an act relating to drivers' licenses; requiring at least 30 minutes of driver education on organ and tissue donation; amending Minnesota Statutes 2004, section 171.0701.

### Contact Information

- Christopher J. Staral, Mounds Park Academy student, (651) 735-7808 (home), (651) 303-8581 (cell), [cstaral06@moundsparkacademy.org](mailto:cstaral06@moundsparkacademy.org)
- Ms. Maggie M. Miller, Director of Communications, Mounds Park Academy, (651) 748-5527, [mmiller@moundsparkacademy.org](mailto:mmiller@moundsparkacademy.org)
- For further information about organ and tissue donation, please contact Ms. Susan Mau Larson, Director of Public Affairs, LifeSource, 2550 University Avenue W, Suite 315S, St. Paul, MN 55114, (651) 603-7852, [smlarson@life-source.org](mailto:smlarson@life-source.org)
- Chief Author: Senator Charles W. Wiger (DFL), 301 Capitol, (651) 296-6820, [sen.chuck.wiger@senate.mn](mailto:sen.chuck.wiger@senate.mn)
- Chief Author: Representative Michael Paymar (DFL), 253 State Office Building, (651) 296-4199, [rep.michael.paymar@house.mn](mailto:rep.michael.paymar@house.mn)

# Summary of Testimony by Christopher Staral Concerning Senate File 2646: Organ and Tissue Donation Education

- **Introduction**

- Number of Minnesotan lives saved through organ transplants strongly correlates with Minnesota organ donation rate;
- The purpose of this legislation is to significantly increase Minnesota's organ and tissue donation rate.

- **Motivation to Increase Organ Donation**

- More than 90,000 individuals are on the national waiting list to receive a life-saving transplantation;
- 115 individuals are added to the list each day;
- **18 individuals nationwide die each day waiting for an organ.**

- **Strategy to Increase Donation Rates**

- In 2000, Wisconsin enacted a law that requires thirty minutes of organ donation education in drivers education curriculums throughout the state of Wisconsin;
- The Organ Procurement Organization (OPO) at the University of Wisconsin has reported a 17% (11 percentage points) higher donation rate than that of LifeSource, Minnesota's OPO (75.5% vs. 64.5%, statistics provided by OPOs and are available at [www.ustransplant.org](http://www.ustransplant.org));
- The higher donation rates in Wisconsin may be directly attributed to Wisconsin's thirty-minute education mandate bill (please see Attachment I; note significantly higher donation rate for the only age group (age 16-19 years) impacted by the 2000 Wisconsin legislature).

## Summary of Testimony by Christopher Staral Concerning Senate File 2646: Organ and Tissue Donation Education

### • Focus on Drivers Education Curriculums

- Minnesota's current organ donation education requirement is not well defined (Attachment II), and consequently the corresponding level of education received by drivers education students in Minnesota is highly variable (Attachment III);
- Minnesota's current law only requires that drivers education companies inform students of their option to donate; any additional information is voluntary;
- Minnesota Driver and Vehicle Services (DVS) has communicated to our group that drivers education schools spend an average of 10-15 minutes on the issue of organ donation. A phone survey conducted by our group confirmed there are a number of driving schools that are currently spending less than 30 minutes on the important subject of organ donation (Attachment III).

### • Anticipated Human and Cost Impacts of Passage

- Based on the results obtained by Wisconsin's time-mandate bill, we are confident that passage of this bill would **increase Minnesota's donation rate from approximately 65% to approximately 75%**;
- Because LifeSource supplies organ donation educational materials free of charge to all drivers education companies that request such materials, the cost of implementing this bill is expected to be minimal. Moreover, our informal survey has shown that the length of **organ donation education is not a significant factor in determining the cost of a drivers education course** (Attachment III).

# WI Organ and Tissue Donor Intent Statistics

Statewide Totals for Run Date: 07/13/2005

Drivers/ID Holders: 4,358,997

The data used by this application does not contain names, addresses or other personally identifiable information.

<u>Age Range</u>	<u>Yes</u>	<u>No</u>	<u>Not Checked</u>
16-19	279,872 (60.4%)	148,474 (32.0%)	35,264 (7.6%)
20-39	802,721 (49.0%)	735,306 (44.9%)	100,187 (6.1%)
40-59	750,143 (49.9%)	668,162 (44.5%)	84,744 (5.6%)
60-79	226,245 (33.4%)	386,674 (57.2%)	63,660 (9.4%)
80+	12,269 (15.8%)	52,840 (68.1%)	12,436 (16.0%)
<b>Statewide Total</b>	<b>2,071,250 (47.5%)</b>	<b>1,991,456 (45.7%)</b>	<b>296,291 (6.8%)</b>

## Attachment I

## Attachment II: Comparison of Statute Language

### Minnesota Statute Language

#### **171.0701 Driver education; organ and tissue donation.**

The commissioner shall adopt rules requiring instruction relating to organ and tissue donations and the provisions of section 171.07, subdivision 5, for persons enrolled in driver education programs offered at public schools, private schools, and commercial driver training schools.

#### **7411.0515 Curriculum for driver education programs.**

##### **Subp. 2. Classroom curriculum for class D motor vehicles.**

The classroom curriculum presented and delivered to each student enrolled in a program for class D motor vehicle operation must include:

- O. opportunity for the student to become informed about becoming an organ donor.

### Wisconsin Statute Language

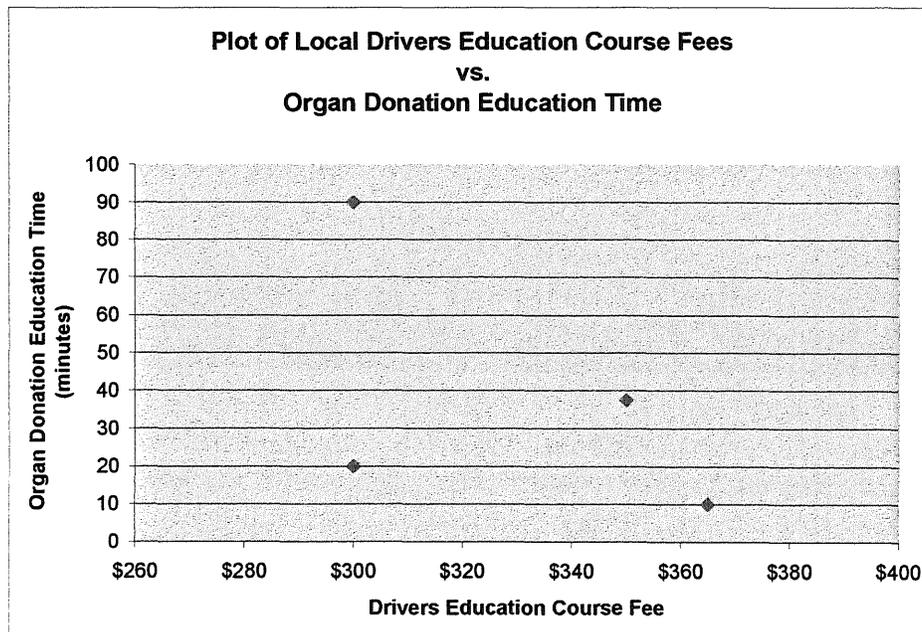
#### **343.61 License required for driver school; fee.**

(subdivision 6) No driver school may be licensed unless its approved course of instruction does all of the following:

- (b) Provides at least 30 minutes of instruction relating to organ and tissue donation and organ and tissue donation procedures.

## Attachment III: Phone Survey of Drivers Education Schools

Name of School	Location of School	Course Fee	Duration of Organ Donation Education
Company A	Minneapolis, MN	\$300	20 minutes
Company B	Circle Pines, MN	\$365	10 minutes
Company C	White Bear Lake, MN	\$300	90 minutes
Company D	Inver Grove Heights, MN	---	90 minutes
Company E	Stillwater, MN	\$345-\$355	30-45 minutes
Company F	Saint Paul, MN	---	60 minutes
Company G	Burnsville, MN	---	10-15 minutes
Company H	Maple Grove, MN	---	30-45 minutes



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# Senate

State of Minnesota

## **S.F. No. 2651 - Dedication of Sales Tax Revenue From Motor Vehicle Leases (As Amended)**

**Author:** Senator Terri Bonoff

**Prepared by:** Krista Boyd, Fiscal Analyst (651/296-7681) *KB*  
Bonnie Berezovsky, Senate Counsel (651/296-9191) *BB*

**Date:** March 16, 2006

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**Section 1** amends the statute on motor vehicle leases, adding a provision for dedication of sales tax revenue. The revenue dedication will be phased in over five years. On and after July 1, 2011, the allocation of lease sales tax revenue shall be:

- ◆ 60 percent to the highway user tax distribution fund;
- ◆ 38 percent to the metropolitan area transit fund; and
- ◆ two percent to the greater Minnesota transit fund.

**Section 2** states that the lessor shall report and remit taxes on motor vehicle leases separately from other taxes.

**Section 3** amends the statute on deposit of revenues from sales and use taxes by adding a paragraph to reflect the revenue dedication change in section 1.

**Section 4** instructs the Revisor to make a renumbering change in an unrelated statute. This is necessitated by the paragraph addition effected in section 3.

KB/BB:rer

**Senators Bonoff, Murphy and Rest introduced--**

**S.F. No. 2651:** Referred to the Committee on Transportation.

1. A bill for an act  
1.2 relating to taxation; changing the deposit of revenues from the sales tax on  
1.3 motor vehicle leases; amending Minnesota Statutes 2005 Supplement, section  
1.4 297A.815, by adding a subdivision.

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

1.6 Section 1. Minnesota Statutes 2005 Supplement, section 297A.815, is amended by  
1.7 adding a subdivision to read:

1.8 Subd. 3. Deposit of revenues. (a) Notwithstanding any law to the contrary, money  
1.9 collected and received under this section must be deposited as provided in this subdivision.

1.10 (b) From July 1, 2006, to June 30, 2007, 30.82 percent of the money collected  
1.11 and received must be deposited in the highway user tax distribution fund, 21.5 percent  
1.12 must be deposited in the metropolitan area transit fund under section 16A.88, and 1.43  
1.13 percent must be deposited in the greater Minnesota transit fund under section 16A.88. The  
1.14 remaining money must be deposited in the general fund.

1.15 (c) From July 1, 2007, to June 30, 2008, 32 percent of the money collected and  
1.16 received must be deposited in the highway user tax distribution fund, 20.5 percent must be  
1.17 deposited in the metropolitan area transit fund under section 16A.88, and 1.25 percent  
1.18 must be deposited in the greater Minnesota transit fund under section 16A.88. The  
1.19 remaining money must be deposited in the general fund.

1.20 (d) From July 1, 2008, to June 30, 2009, 44.25 percent of the money collected and  
1.21 received must be deposited in the highway user tax distribution fund, 28.025 percent must  
1.22 be deposited in the metropolitan area transit fund under section 16A.88, 1.475 percent  
1.23 must be deposited in the greater Minnesota transit fund under section 16A.88. The  
1.24 remaining money must be deposited in the general fund.

2.1 (e) From July 1, 2009, to June 30, 2010, 50.25 percent of the money collected and  
2.2 received must be deposited in the highway user tax distribution fund, 31.825 percent must  
2.3 be deposited in the metropolitan area transit fund under section 16A.88, 1.675 percent  
2.4 must be deposited in the greater Minnesota transit fund under section 16A.88. The  
2.5 remaining money must be deposited in the general fund.

2.6 (f) From July 1, 2010, to June 30, 2011, 56.25 percent of the money collected and  
2.7 received must be deposited in the highway user tax distribution fund, 35.625 percent must  
2.8 be deposited in the metropolitan area transit fund under section 16A.88, 1.875 percent  
2.9 must be deposited in the greater Minnesota transit fund under section 16A.88. The  
2.10 remaining money must be deposited in the general fund.

2.11 (g) On and after July 1, 2011, 60 percent of the money collected and received must  
2.12 be deposited in the highway user tax distribution fund, 38 percent must be deposited in the  
2.13 metropolitan area transit fund under section 16A.88, and two percent must be deposited in  
2.14 the greater Minnesota transit fund under section 16A.88.

2.15 **EFFECTIVE DATE.** This section is effective July 1, 2006.

# MINNESOTA REVENUE

## SALES TAX Motor Vehicle Leases Dedication

March 14, 2006

	Yes	No
DOR Administrative Costs/Savings	x	

Department of Revenue  
Analysis of S.F. 2651 (Bonoff) / H.F. 3127 (Abrams)

	Fund Impact			
	F.Y. 2006	F.Y. 2007	F.Y. 2008	F.Y. 2009
	(000's)			
General Fund	\$0	(\$32,100)	(\$25,060)	(\$32,210)
Highway User Tax Distribution Fund	\$0	\$18,400	\$14,920	\$19,330
Metropolitan Area Transit Fund	\$0	\$12,840	\$9,560	\$12,240
Greater Minnesota Transit Fund	\$0	\$850	\$580	\$640

Effective July 1, 2006

### EXPLANATION OF THE BILL

**Current Law:** Leases of motor vehicles are subject to the general sales tax. The tax from vehicle leases is deposited in the general fund the same as other sales tax receipts. Purchases of motor vehicles are subject to the separate motor vehicle sales tax. Motor vehicle sales tax receipts are divided between transportation funds and the general fund.

**Proposed Law:** The bill provides a phased allocation of the sales tax from vehicle leases from the general fund to transportation funds, as follows:

	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011</u>	<u>FY 2012</u>
Highway User Tax Distribution Fund	30.82%	32.0%	44.25%	50.25%	56.25%	60.0%
Metropolitan Area Transit Fund	21.5%	20.5%	28.025%	31.825%	35.625%	38.0%
Greater Minnesota Transit Fund	1.43%	1.25%	1.475%	1.675%	1.875%	2.0%
General Fund	46.25%	46.25%	26.25%	16.25%	6.25%	0.0%

### REVENUE ANALYSIS DETAIL

- The estimate was based on lease payment data from the U.S. Bureau of Economic Analysis. In state fiscal year 2002, national personal consumption expenditures on vehicle leasing were \$31.5235 billion.
- This amount was increased by 25% to account for leases by businesses.
- The adjusted amount was apportioned to Minnesota at 1.72%, the state portion of new passenger car and truck registrations in 2002.

**REVENUE ANALYSIS DETAIL (cont.)**

- Amounts were allocated to the funds by the percentages specified in the bill.
- Annual growth was at the same rate as for the motor vehicle sales tax according to the February 2006 state revenue forecast.
- The estimates reflect the effect of the 2005 law change which requires sales tax on vehicle leases to be paid in full at the beginning of the lease, effective for new leases entered into after September 30, 2005. This is the main reason why the estimates for fiscal year 2008 are lower than those for fiscal year 2007.

Source: Minnesota Department of Revenue  
Tax Research Division  
[http://www.taxes.state.mn.us/taxes/legal\\_policy](http://www.taxes.state.mn.us/taxes/legal_policy)

1.1 Senator ..... moves to amend S.F. No. 2651 as follows:

1.2 Page 2, delete line 15 and insert:

1.3 "Sec. 2. Minnesota Statutes 2005 Supplement, section 297A.815, is amended by  
1.4 adding a subdivision to read:

1.5 Subd. 4. **Reporting of tax proceeds.** A lessor must report taxes collected under  
1.6 this section separately from any other taxes collected and remitted under this chapter or  
1.7 chapter 297B.

1.8 Sec. 3. Minnesota Statutes 2004, section 297A.94, is amended to read:

1.9 **297A.94 DEPOSIT OF REVENUES.**

1.10 (a) Except as provided in this section, the commissioner shall deposit the revenues,  
1.11 including interest and penalties, derived from the taxes imposed by this chapter in the state  
1.12 treasury and credit them to the general fund.

1.13 (b) The commissioner shall deposit taxes in the Minnesota agricultural and economic  
1.14 account in the special revenue fund if:

1.15 (1) the taxes are derived from sales and use of property and services purchased for  
1.16 the construction and operation of an agricultural resource project; and

1.17 (2) the purchase was made on or after the date on which a conditional commitment  
1.18 was made for a loan guaranty for the project under section 41A.04, subdivision 3.

1.19 The commissioner of finance shall certify to the commissioner the date on which the  
1.20 project received the conditional commitment. The amount deposited in the loan guaranty  
1.21 account must be reduced by any refunds and by the costs incurred by the Department of  
1.22 Revenue to administer and enforce the assessment and collection of the taxes.

1.23 (c) The commissioner shall deposit the revenues, including interest and penalties,  
1.24 derived from the taxes imposed on sales and purchases included in section 297A.61,  
1.25 subdivision 3, paragraph (g), clauses (1) and (4), in the state treasury, and credit them  
1.26 as follows:

2.1 (1) first to the general obligation special tax bond debt service account in each fiscal  
2.2 year the amount required by section 16A.661, subdivision 3, paragraph (b); and

2.3 (2) after the requirements of clause (1) have been met, the balance to the general  
2.4 fund.

2.5 (d) The commissioner shall deposit the revenues, including interest and penalties,  
2.6 collected under section 297A.64, subdivision 5, in the state treasury and credit them to the  
2.7 general fund. By July 15 of each year the commissioner shall transfer to the highway user  
2.8 tax distribution fund an amount equal to the excess fees collected under section 297A.64,  
2.9 subdivision 5, for the previous calendar year.

2.10 (e) The commissioner shall deposit the revenues, including interest and penalties,  
2.11 collected under section 297A.815, subdivisions 1 and 2, as provided in section 297A.815,  
2.12 subdivision 3.

2.13 ~~(e)~~ (f) For fiscal year 2001, 97 percent; for fiscal years 2002 and 2003, 87 percent;  
2.14 and for fiscal year 2004 and thereafter, 72.43 percent of the revenues, including interest  
2.15 and penalties, transmitted to the commissioner under section 297A.65, must be deposited  
2.16 by the commissioner in the state treasury as follows:

2.17 (1) 50 percent of the receipts must be deposited in the heritage enhancement account  
2.18 in the game and fish fund, and may be spent only on activities that improve, enhance, or  
2.19 protect fish and wildlife resources, including conservation, restoration, and enhancement  
2.20 of land, water, and other natural resources of the state;

2.21 (2) 22.5 percent of the receipts must be deposited in the natural resources fund, and  
2.22 may be spent only for state parks and trails;

2.23 (3) 22.5 percent of the receipts must be deposited in the natural resources fund, and  
2.24 may be spent only on metropolitan park and trail grants;

2.25 (4) three percent of the receipts must be deposited in the natural resources fund, and  
2.26 may be spent only on local trail grants; and

2.27 (5) two percent of the receipts must be deposited in the natural resources fund,  
2.28 and may be spent only for the Minnesota Zoological Garden, the Como Park Zoo and  
2.29 Conservatory, and the Duluth Zoo.

2.30 ~~(f)~~ (g) The revenue dedicated under paragraph ~~(e)~~ (f) may not be used as a substitute  
2.31 for traditional sources of funding for the purposes specified, but the dedicated revenue  
2.32 shall supplement traditional sources of funding for those purposes. Land acquired with  
2.33 money deposited in the game and fish fund under paragraph ~~(e)~~ (f) must be open to public  
2.34 hunting and fishing during the open season, except that in aquatic management areas or  
2.35 on lands where angling easements have been acquired, fishing may be prohibited during  
2.36 certain times of the year and hunting may be prohibited. At least 87 percent of the money

3.1 deposited in the game and fish fund for improvement, enhancement, or protection of fish  
3.2 and wildlife resources under paragraph ~~(e)~~ (f) must be allocated for field operations.

3.3 Sec. 4. **REVISOR'S INSTRUCTION.**

3.4 In Minnesota Statutes 2004, section 97A.055, subdivision 2, clause (7), the revisor  
3.5 of statutes shall remove "297A.94, paragraph (e), clause (1)," and insert "297A.94,  
3.6 paragraph (f), clause (1)," to reflect the change made in section 3.

3.7 Sec. 5. **EFFECTIVE DATE.**

3.8 Sections 1 to 4 are effective July 1, 2006."

3.9 Amend the title accordingly

## A bill for an act

1.2 relating to eminent domain; defining public use or purpose; prohibiting the use  
1.3 of eminent domain for economic development; requiring clear and convincing  
1.4 evidence for certain takings; providing for attorney fees and other additional  
1.5 elements of compensation; making other changes in the exercise of eminent  
1.6 domain; amending Minnesota Statutes 2004, sections 117.025; 117.036; 117.055;  
1.7 117.075, subdivision 1, by adding a subdivision; 117.085; 117.51; 117.52,  
1.8 subdivision 1, by adding a subdivision; 163.12, subdivisions 1a, 1b; 469.012,  
1.9 subdivision 1g; proposing coding for new law in Minnesota Statutes, chapter 117.

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

1.11 Section 1. **[117.012] PREEMPTION; NO IMPLIED AUTHORITY.**

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

1.20 Subd. 2. No implied authority. The power of eminent domain shall not be implied.  
1.21 In order to exercise the power of eminent domain, the condemning authority must have an  
1.22 express grant of eminent domain authority.

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

1.24 **117.025 DEFINITIONS.**

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

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

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

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

2.13 Subd. 5. **Abandoned property.** "Abandoned property" means property not  
2.14 occupied by a person with a legal or equitable right to occupy the property and for which  
2.15 the condemning authority is unable to identify and contact the owner despite making  
2.16 reasonable efforts.

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

2.18 (1) that is zoned and used for urban use; and

2.19 (2) where more than 50 percent of the buildings are dilapidated.

2.20 Subd. 7. **Dilapidated building.** "Dilapidated building" means a building:

2.21 (1) that was inspected by the appropriate local government and cited for one or more  
2.22 building code violations at least 12 months before the condemnation is commenced;

2.23 (2) in which the building code violations cited have not been remedied, as  
2.24 determined by at least one reinspection that finds noncompliance after the due date for  
2.25 compliance with an order to correct a building code violation; and

2.26 (3) that, as of the date the condemnation is commenced, is unfit for human use  
2.27 because it is unsafe, structurally unsound, or lacking in basic equipment.

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

2.30 (1) that contains, on or below more than 50 percent of its surface area, any substance  
2.31 defined, regulated, or listed as a hazardous substance, hazardous material, hazardous  
2.32 waste, toxic waste, pollutant, contaminant, or toxic substance, or identified as hazardous to  
2.33 human health or the environment under state or federal law or regulation; and

2.34 (2) for which the costs of investigation, monitoring and testing, and remedial action  
2.35 or removal, as defined in section 115B.02, subdivisions 16 and 17, respectively, including  
2.36 any state costs of remedial actions, exceed 100 percent of the assessor's estimated market

3.1 value for the contaminated area, as determined under section 273.11, for property taxes  
 3.2 payable in the year in which the condemnation commenced.

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

3.5 Subd. 10. Public service corporation. "Public service corporation" means a  
 3.6 utility, as defined by section 116C.52, subdivision 10; gas, electric, telephone, or cable  
 3.7 communications company; cooperative association; natural gas pipeline company; crude  
 3.8 oil, or petroleum products pipeline company; municipal utility; municipality when  
 3.9 operating its municipally owned utilities; or municipal power agency. Public service  
 3.10 corporation also means a municipality or public corporation when operating an airport  
 3.11 under chapter 360 or 473, a common carrier, a watershed district, or a drainage authority.

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

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

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

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

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

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

3.24 **Subdivision 1. Nondilapidated buildings in areas of blight mitigation; absolute**  
 3.25 **necessity. In taking property to mitigate blight, a condemning authority must not take**  
 3.26 **nondilapidated buildings in the area unless it is absolutely necessary in order to remove**  
 3.27 **the dilapidated buildings.**

3.28 **Subd. 2. Uncontaminated property in environmental contamination**  
 3.29 **remediation areas; absolute necessity. In taking property to remediate environmental**  
 3.30 **contamination, a condemning authority must not take uncontaminated parcels in the area**  
 3.31 **unless it is absolutely necessary in order to complete remediation of the contaminated area.**

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

4.1 Sec. 4. Minnesota Statutes 2004, section 117.036, is amended to read:

4.2 **117.036 APPRAISAL AND NEGOTIATION REQUIREMENTS**  
4.3 ~~**APPLICABLE TO ACQUISITION OF PROPERTY FOR TRANSPORTATION**~~  
4.4 ~~**PURPOSES.**~~

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

4.8 Subd. 2. **Appraisal.** (a) Before commencing an eminent domain proceeding under  
4.9 this chapter, the acquiring authority must obtain at least one appraisal for the property  
4.10 proposed to be acquired. In making the appraisal, the appraiser must confer with one or  
4.11 more of the fee owners or contract purchasers of the property, if reasonably possible. ~~At~~  
4.12 ~~least 20~~ The acquiring authority must provide the fee owner or contract purchaser with  
4.13 a copy of the appraisal at the time an offer is made, but no later than 60 days before  
4.14 presenting a petition under section 117.055, the acquiring authority must provide the  
4.15 ~~owner with a copy of the appraisal and inform the owner of the owner's~~ fee owner or  
4.16 contract purchaser of the right to obtain an appraisal under this section. Upon request,  
4.17 the acquiring authority must make available to the fee owner or contract purchaser all  
4.18 appraisals of the property.

4.19 (b) The fee owner or contract purchaser may obtain an appraisal by a qualified  
4.20 appraiser of the property proposed to be acquired. The fee owner or contract purchaser  
4.21 is entitled to reimbursement for the reasonable costs of the appraisal from the acquiring  
4.22 authority up to a maximum of \$1,500 ~~within 30 days after the~~ for single family and  
4.23 two-family residential property, agricultural property, and minimum damage acquisitions  
4.24 and \$5,000 for other types of property, provided that the fee owner or contract purchaser  
4.25 submits to the acquiring authority the information necessary for reimbursement, provided  
4.26 ~~that the owner does so~~ including a copy of the fee owner's or contract purchaser's  
4.27 appraisal, within 60 90 days after the owner receives receiving the appraisal from the  
4.28 authority under paragraph (a) and at least five days before a condemnation commissioners'  
4.29 hearing. For purposes of this paragraph, a "minimum damage acquisition" means an  
4.30 interest in property that a qualified person with appraisal knowledge indicates can be  
4.31 acquired for a cost of \$10,000 or less. For purposes of this paragraph, "agricultural  
4.32 property" has the meaning given in section 583.22, subdivision 2.

4.33 (c) The acquiring authority must pay the reimbursement to the fee owner or contract  
4.34 purchaser within 30 days after receiving a copy of the appraisal and the reimbursement  
4.35 information. Upon agreement between the acquiring authority and either the fee owner

5.1 or contract purchaser, the acquiring authority may pay the reimbursement directly to  
5.2 the appraiser.

5.3 Subd. 3. **Negotiation.** In addition to the appraisal requirements under subdivision 2,  
5.4 before commencing an eminent domain proceeding, the acquiring authority must make a  
5.5 good faith attempt to negotiate personally with the fee owner or contract purchaser of the  
5.6 property in order to acquire the property by direct purchase instead of the use of eminent  
5.7 domain proceedings. In making this negotiation, the acquiring authority must consider  
5.8 the appraisals in its possession, including any appraisal obtained and furnished by the fee  
5.9 owner or contract purchaser if available, and other information that may be relevant to a  
5.10 determination of damages under this chapter.

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

5.15 Sec. 5. **[117.0412] LOCAL GOVERNMENT PUBLIC HEARING**  
5.16 **REQUIREMENTS.**

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

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

5.20 (2) "local government agency" means a subdivision, agency, authority, or other entity  
5.21 of the local government, including a port authority, economic development authority,  
5.22 housing and redevelopment authority, or other similar entity established under law.

5.23 Subd. 2. **Public hearing; vote by local government governing body.** (a) Before a  
5.24 local government or local government agency commences an eminent domain proceeding  
5.25 under section 117.055, a public hearing must be held as provided in this section. The local  
5.26 government must notify each owner of property that may be acquired in writing of the  
5.27 public hearing on the proposed taking, post the public hearing information on the local  
5.28 government's Web site, if any, and publish notice of the public hearing in a newspaper  
5.29 of general circulation in the local government's jurisdiction. Notice must be provided at  
5.30 least 30 days but not more than 60 days before the hearing.

5.31 (b) Any interested person must be allowed reasonable time to present relevant  
5.32 testimony at the public hearing. The proceedings of the hearing must be recorded and  
5.33 available to the public for review and comment at reasonable times and a reasonable place.  
5.34 At the next regular meeting of the local government that is at least 30 days after the public

6.1 hearing, the local government must vote on the question of whether to authorize the local  
6.2 government or local government agency to use eminent domain to acquire the property.

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

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

6.10 (2) address how the acquisition of the property interest serves one or more identified  
6.11 public purposes and why the acquisition of the property is reasonably necessary to  
6.12 accomplish those purposes.

6.13 Sec. 6. Minnesota Statutes 2004, section 117.055, is amended to read:

6.14 **117.055 PETITION AND NOTICE.**

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

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

6.24 (b) The notice must state that:

6.25 (1) a party wishing to challenge the public purpose, necessity, or authority for a  
6.26 taking must appear at the court hearing and state the objection; and

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

6.29 (c) If any such owner be not a resident of the state, or the owner's place of residence  
6.30 be unknown to the petitioner, upon the filing of an affidavit of the petitioner or the  
6.31 petitioner's agent or attorney, stating that the petitioner believes that such owner is not  
6.32 a resident of the state, and that the petitioner has mailed a copy of the notice to the  
6.33 owner at the owner's place of residence, or that after diligent inquiry the owner's place  
6.34 of residence cannot be ascertained by the affiant, then service may be made upon such  
6.35 owner by three weeks' published notice. If the state be an owner, the notice shall be

7.1 served upon the attorney general. Any owner not served as herein provided shall not be  
7.2 bound by such proceeding except upon voluntarily appearing therein. Any owner shall  
7.3 be furnished a right-of-way map or plat of all that part of land to be taken upon written  
7.4 demand, provided that the petitioner shall have ten days from the receipt of the demand  
7.5 within which to furnish the same. Any plans or profiles which the petitioner has shall be  
7.6 made available to the owner for inspection.

7.7 Sec. 7. Minnesota Statutes 2004, section 117.075, subdivision 1, is amended to read:

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

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

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

7.19 Sec. 8. Minnesota Statutes 2004, section 117.075, is amended by adding a subdivision  
7.20 to read:

7.21 Subd. 1b. Attorney fees. If the court determines that a taking is not for a public  
7.22 purpose or is unlawful, the court shall award the owner reasonable attorney fees and other  
7.23 related expenses, fees, and costs.

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

7.25 **117.085 COMMISSIONERS, POWERS, DUTIES.**

7.26 The commissioners, having been duly sworn and qualified according to law, shall  
7.27 meet as directed by the order of appointment and hear the allegations and proofs of all  
7.28 persons interested touching the matters to them committed. They may adjourn from time  
7.29 to time and from place to place within the county, giving oral notice to those present of  
7.30 the time and place of their next meeting. All testimony taken by them shall be given  
7.31 publicly, under oath, and in their presence. They shall view the premises, and any of  
7.32 them may subpoena witnesses, which shall be served as subpoenas in civil actions are  
7.33 served, and at the cost of the parties applying therefor. If deemed necessary, they may

8.1 require the petitioner or owner to furnish for their use maps, plats, and other information  
8.2 which the petitioner or owner may have showing the nature, character, and extent of the  
8.3 proposed undertaking and the situation of lands desired therefor. In proper cases they may  
8.4 reserve to the owner a right-of-way or other privilege in or over the land taken, or attach  
8.5 reasonable conditions to such taking in addition to the damages given or they may make  
8.6 an alternative award, conditioned upon the granting or withholding of the right specified.  
8.7 Without unreasonable delay they shall make a separate assessment and award of the  
8.8 damages which in their judgment will result to each of the owners of the land by reason  
8.9 of such taking and report the same to the court. The commissioners shall not reduce the  
8.10 amount of the damages awarded because the land being taken is, at the time of the taking,  
8.11 valued under section 273.111, designated as an agricultural preserve under chapter 473H.  
8.12 The commissioners, in all such proceedings, may in their discretion allow and show  
8.13 separately in addition to the award of damages, reasonable appraisal fees not to exceed a  
8.14 total of ~~\$500~~ \$1,500 for single family and two-family residential property, agricultural  
8.15 property, and minimum damage acquisitions and \$5,000 for other types of property. Upon  
8.16 request of an owner the commissioners shall show in their report the amount of the award  
8.17 of damages which is to reimburse the owner and tenant or lessee for the value of the land  
8.18 taken, and the amount of the award of damages, if any, which is to reimburse the owner  
8.19 and tenant or lessee for damages to the remainder involved, whether or not described in  
8.20 the petition. The amounts awarded to each person shall also be shown separately. The  
8.21 commissioners shall, if requested by any party, make an express finding of the estimated  
8.22 cost of removal and remedial actions that will be necessary on the taken property because  
8.23 of existing environmental contamination.

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

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

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

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

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

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

9.7 Subd. 2. Compensation. In all eminent domain proceedings, the owner of a business  
9.8 or trade must be compensated for the loss of a going concern if the owner establishes that:

9.9 (1) the business or trade has been destroyed as a result of the taking;

9.10 (2) the loss cannot be reasonably prevented by relocating the business or trade in the  
9.11 same or a similar and reasonably suitable location as the property that was taken, or by  
9.12 taking steps and adopting procedures that a reasonably prudent person of a similar age  
9.13 and under similar conditions as the owner would take and adopt in preserving the going  
9.14 concern of the business or trade; and

9.15 (3) compensation for the loss of going concern will not be duplicated in the  
9.16 compensation otherwise awarded to the owner of the business or trade.

9.17 Subd. 3. Procedure. In all cases where an owner seeks compensation for loss  
9.18 of a going concern, the court must determine, upon motion by the owner, whether the  
9.19 going concern has been taken. If the court determines that there is a taking of the going  
9.20 concern, any damages must be determined by the commissioners under section 117.105  
9.21 and must be reported in the award of the commissioners separate from the award of just  
9.22 compensation for the real property taken. An award for loss of going concern may be  
9.23 appealed by any party in accordance with section 117.145.

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

9.25 When an owner must relocate, the amount of damages payable, at a minimum, must  
9.26 be sufficient for an owner to purchase a similar house or building of equivalent size in  
9.27 the community and not less than the condemning authority's payment or deposit under  
9.28 section 117.042.

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

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

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

10.1 Sections 117.036; 117.055, subdivision 2, paragraph (b); 117.075, subdivision 1b;  
10.2 117.186; 117.187; 117.188; and 117.52, subdivision 1a, do not apply to public service  
10.3 corporations. For purposes of an award of appraisal fees under section 117.085, the fees  
10.4 awarded may not exceed \$500 for all types of property.

10.5 Sec. 15. [117.196] ATTORNEY FEES.

10.6 If the final judgment or award of damages is at least 20 percent greater than the last  
10.7 written offer of compensation made by the condemning authority before the filing of the  
10.8 petition, the court may award the owner reasonable attorney fees and costs in addition to  
10.9 other compensation and fees authorized by this chapter.

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

10.11 **117.51 COOPERATION WITH FEDERAL AUTHORITIES.**

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

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

10.21 **Subdivision 1. Lack of federal funding.** In all acquisitions undertaken by any  
10.22 acquiring authority and in all voluntary rehabilitation carried out by a person pursuant  
10.23 to acquisition or as a consequence thereof, in which, due to the lack of federal financial  
10.24 participation, relocation assistance, services, payments and benefits under the Uniform  
10.25 Relocation Assistance and Real Property Acquisition Policies Act of 1970, United States  
10.26 Code, title 42, sections 4601 to 4655, as amended by the Surface Transportation and  
10.27 Uniform Relocation Assistance Act of 1987, Statutes at Large, volume 101, pages 246  
10.28 to 256 (1987), are not available, the acquiring authority, as a cost of acquisition, shall  
10.29 provide all relocation assistance, services, payments and benefits required by the Uniform  
10.30 Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended by  
10.31 the Surface Transportation and Uniform Relocation Assistance Act of 1987, and those  
10.32 regulations adopted pursuant thereto, and either (1) in effect as of ~~July 1, 1988~~ January 1,  
10.33 2006, or (2) becoming effective after ~~July 1, 1988~~ January 1, 2006, following a public

11.1 hearing and comment. Comments received by an acquiring authority within 30 days after  
11.2 the public hearing must be reviewed and a written response provided to the individual or  
11.3 organization who initiated the comment. The response and comments may be addressed in  
11.4 another public hearing by the acquiring authority before approval.

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

11.7 Subd. 1a. Reestablishment costs limit. For purposes of relocation benefits paid by  
11.8 the acquiring authority in accordance with this section, the provisions of Code of Federal  
11.9 Regulations, title 49, section 24.304, with respect to reimbursement of reestablishment  
11.10 expenses for nonresidential moves are applicable, except that the acquiring authority shall  
11.11 reimburse the displaced business for expenses actually incurred up to a maximum of  
12 \$50,000.

11.13 Sec. 19. Minnesota Statutes 2004, section 163.12, subdivision 1a, is amended to read:

11.14 **Subd. 1a. Petition, notice, and access to information.** (a) Upon passage of the  
11.15 resolution specified in section 163.11, subdivision 2, a petition must be presented to the  
11.16 district court of the county in which the land is located. The petition must describe each  
11.17 tract of land through which the highway passes, state the purposes for which the land is  
11.18 proposed to be taken, and list the names of all persons appearing of record or known to  
11.19 the county to be the landowners.

11.20 (b) Notice of the objects of the petition and of the time and place of presenting the  
11.21 notice must be served, together with a copy of the resolution, upon each occupant of  
11.22 each tract of land through which the highway passes at least 20 days before the hearing  
11.23 under subdivision 1b. If an owner is not a resident of the state, or the owner's place of  
11.24 residence is unknown to the county, service may be made by three weeks' published  
11.25 notice following the filing of an affidavit on behalf of the county by the county's agent or  
11.26 attorney stating that the county:

11.27 (1) believes that the owner is not a resident of the state; and

11.28 (2) has either mailed a copy of the notice to the owner at the owner's last known  
11.29 residence address or, after diligent inquiry, the owner's place of residence cannot be  
11.30 ascertained by the county.

11.31 If the state is an owner, the notice must be served upon the attorney general. An owner  
11.32 not served as provided in this subdivision is not bound by the proceeding, except if the  
11.33 owner voluntarily appears in the proceeding.

12.1 (c) Within ten days of an owner's demand, the owner must be furnished a  
 12.2 right-of-way map or plat of all that part of the owner's land to be taken. Any applicable  
 12.3 plans or profiles that the county possesses must be made available to the owner for  
 12.4 inspection.

12.5 (d) The notice must state that:

12.6 (1) a party wishing to challenge the public purpose, necessity, or authority for the  
 12.7 taking must appear at the court hearing and state the objection; and

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

12.10 Sec. 20. Minnesota Statutes 2004, section 163.12, subdivision 1b, is amended to read:

12.11 Subd. 1b. **Finding of necessity.** When proof of service of the notice required in  
 12.12 subdivision 1a is filed with the court, the court shall hear all competent evidence offered  
 12.13 for or against granting the petition at the time and place fixed in the notice or otherwise set  
 12.14 by the court. On finding that the proposed taking is necessary and authorized by law the  
 12.15 court shall order the proceedings to commence pursuant to the remaining provisions of  
 12.16 this section. The court order finding the taking necessary and authorized by law is a final  
 12.17 order and must be appealed within 60 days from its service on the party.

12.18 Sec. 21. Minnesota Statutes 2004, section 469.012, subdivision 1g, is amended to read:

12.19 Subd. 1g. **Get property; eminent domain.** (a) An authority may, within its area of  
 12.20 operation, acquire real or personal property or any interest therein by gifts, grant, purchase,  
 12.21 exchange, lease, transfer, bequest, devise, or otherwise, and by the exercise of the power  
 12.22 of eminent domain, in the manner provided by chapter 117, acquire real property which it  
 12.23 may deem necessary for its purposes, after the adoption by it of a resolution declaring that  
 12.24 the acquisition of the real property is necessary:

12.25 (1) to eliminate one or more of the conditions found to exist in the resolution adopted  
 12.26 pursuant to section 469.003 or to provide decent, safe, and sanitary housing for persons  
 12.27 of low and moderate income; or

12.28 (2) to carry out a redevelopment project.

12.29 (b) Real property needed or convenient for a project may be acquired by the  
 12.30 authority for the project by condemnation pursuant to this section and chapter 117.

12.31 ~~(c) Prior to adoption of a resolution authorizing acquisition of property by~~  
 12.32 ~~condemnation, the governing body of the authority must hold a public hearing on the~~  
 12.33 ~~proposed acquisition after published notice in a newspaper of general circulation in the~~  
 12.34 ~~municipality, which must be made at least one time not less than ten days nor more than~~

13.1 ~~30 days prior to the date of the hearing. The notice must reasonably describe the property~~  
13.2 ~~to be acquired and state that the purpose of the hearing is to consider acquisition by~~  
13.3 ~~exercise of the authority's powers of eminent domain. Not less than ten days before the~~  
13.4 ~~hearing, notice of the hearing must also be mailed to the owner of each parcel proposed~~  
13.5 ~~to be acquired, but failure to give mailed notice or any defects in the notice does not~~  
13.6 ~~invalidate the acquisition. For the purpose of giving mailed notice, owners are determined~~  
13.7 ~~in accordance with section 429.031, subdivision 1, paragraph (a).~~

13.8 ~~(d)~~ (c) Property acquired by condemnation under this section may include any  
13.9 property devoted to a public use, whether or not held in trust, notwithstanding that the  
13.10 property may have been previously acquired by condemnation or is owned by a public  
13.11 utility corporation, because the public use in conformity with the provisions of sections  
13.12 469.001 to 469.047 shall be deemed a superior public use. Property devoted to a public  
13 use may be so acquired only if the governing body of the municipality has approved  
13.14 its acquisition by the authority.

13.15 ~~(e)~~ (d) An award of compensation shall not be increased by reason of any increase  
13.16 in the value of the real property caused by the assembly, clearance or reconstruction, or  
13.17 proposed assembly, clearance or reconstruction for the purposes of sections 469.001  
13.18 to 469.047 of the real property in an area.

13.19 **Sec. 22. REVISOR'S INSTRUCTION.**

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

13.22 **Sec. 23. EFFECTIVE DATE.**

13.23 This act is effective the day following final enactment and applies to condemnation  
13.24 proceedings for which service of notice of the petition under Minnesota Statutes, section  
13.25 117.055, is made on or after March 1, 2006.

1.1 Senator ..... moves to amend S.F. No. 2750 as follows:

1.2 Page 9, after line 23, insert:

1.3 "EFFECTIVE DATE. This section is effective the day following final enactment  
1.4 and applies to condemnation proceedings pending on, or for which service of notice of the  
1.5 petition under Minnesota Statutes, section 117.055, is made on or after, the effective date."

1.6 Page 10, after line 9, insert:

1.7 "EFFECTIVE DATE. This section is effective the day following final enactment  
1.8 and applies to condemnation proceedings pending on, or for which service of notice of the  
1.9 petition under Minnesota Statutes, section 117.055, is made on or after, the effective date."

1.10 Page 13, line 23, before "This" insert "Except as otherwise provided, "

1.1 Senator ..... moves to amend S.F. No. 2750 as follows:

1.2 Page 4, line 13, delete "the appraisal" and insert "each appraisal the acquiring  
1.3 authority has obtained for the property"

1.4 Page 4, line 18, after the period, insert "If the acquiring authority is considering both  
1.5 a full and partial taking of the property, the acquiring authority shall obtain and provide  
1.6 the fee owner or contract purchaser with appraisals for both types of takings."

1.7 Page 5, line 10, after the period, insert "If the acquiring authority is considering both  
1.8 a full and partial taking of the property, the acquiring authority must make a good-faith  
1.9 attempt to negotiate with respect to both types of takings."

1.10 Page 5, after line 14, insert:

1.11 "EFFECTIVE DATE. This section is effective the day following final enactment.  
1.12 The requirements of this section relating to providing copies of appraisals and negotiation  
1.13 requirements apply to requests for appraisals made, and negotiations that are occurring, on  
1.14 or after the effective date."

1.1 Senator ..... moves to amend S.F. No. 2750 as follows:

1.2 Page 3, line 11, after "authority." insert "Public service corporation also means  
1.3 an entity operating a regional distribution center within an international economic  
development zone designated under section 469.322."

1.1 Senator ..... moves to amend S.F. No. 2750 as follows:

1.2 Page 7, line 30, after the period, insert "All meeting of the commissioners must be  
1.3 open to the public."

1.1 Senator ..... moves to amend S.F. No. 2750 as follows:

1.2 Page 8, line 33, after "OF" insert "OR DAMAGE TO A"

1.3 Page 9, line 2, before "reputation" insert "accessibility,"

1.4 Page 9, after line 16, insert:

1.5 "Subd. 3. Compensation for damage to going concern. An owner is entitled  
1.6 to compensation for damages to a going concern if the owner establishes that a taking  
1.7 resulted in a significant reduction in the volume of business or revenue generated by the  
1.8 going concern. For purposes of this subdivision, a taking may result from eminent domain  
1.9 proceedings commenced by a condemning authority or from other actions of a government  
1.10 entity that result in a significant reduction in access to a going concern."

1.11 Page 9, delete line 17, and insert:

1.12 "Subd. 4. Procedure. In all cases where an owner will seek compensation for  
1.13 loss of or damage to"

1.14 Page 9, line 18, delete "of"

1.15 Page 9, line 22, after "of" insert "or damage to a"

1.1 Senator ..... moves to amend S.F. No. 2750 as follows:

1.2 Page 1, after line 22, insert:

1.3 "Subd. 3. Requirement of public use or public purpose. Eminent domain may  
1.4 only be used for a public use or public purpose."

1.5 Page 4, after line 7, insert:

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

1.9 Page 5, line 21, delete "of" and insert "created by or whose members are appointed  
1.10 by"

1.11 Page 6, delete line 11 and insert "public uses or public purposes and why the  
1.12 acquisition of the property is needed to"

1.13 Page 6, line 12, before "purposes" insert "public uses or public"

1.14 Page 6, line 25, before "public" insert "public use or"

1.15 Page 6, line 27, before "public" insert "public use or"

1.16 Page 7, line 15, after "show" insert "the district court"

1.17 Page 7, line 17, before "public" insert "public use or"

1.18 Page 7, line 21, before "public" insert "public use or"

1.19 Page 9, line 8, after "establishes" insert "by substantial evidence"

1.20 Page 9, line 17, delete "seeks" and insert "will seek"

1.21 Page 9, delete lines 18 to 23 and insert "of a going concern, the damages, if any,  
1.22 shall in the first instance be determined and reported by the commissioners under  
1.23 section 117.105 as part of the compensation due to the owner. The owner shall notify  
1.24 the condemning authority of the owner's intent to claim compensation for loss of going

2.1 concern within 60 days of the first hearing before the court, as provided in section 117.075.  
2.2 The commissioner's decision regarding any award for loss of going concern may be  
2.3 appealed by any party, in accordance with section 117.145."

2.4 Page 10, after line 9, insert:

2.5 "Sec. 16. **[117.226] RIGHT OF FIRST REFUSAL.**

2.6 (a) Notwithstanding section 161.23, if the governing body of the condemning  
2.7 authority determines that publicly owned property acquired under this chapter has not  
2.8 been used and is no longer needed for a public use, the authority must offer to sell the  
2.9 property to the owner from whom it was acquired, if the former owner can be located,  
2.10 at the original price determined by the condemnation process or the current fair market  
2.11 value of the property, whichever is lower.

2.12 (b) If the former owner cannot be located or declines to repurchase the property,  
2.13 the condemning authority shall prepare a certificate attesting to the same and record the  
2.14 certificate in the office of the county recorder or county registrar of titles, as appropriate,  
2.15 to evidence the termination of the right of first refusal."

2.16 Page 12, line 6, before "public" insert "public use or"

2.17 Page 12, line 8, before "public" insert "public use or"

2.18 Page 12, delete section 21

2.19 Renumber the sections in sequence and correct the internal references

2.20 Amend the title accordingly

- 1.1 Senator ..... moves to amend S.F. No. 2750 as follows:
- 1.2 Page 9, line 26, delete "a similar house or building of equivalent size"
- 1.3 Page 9, line 28, before the period, insert ", to the extent the damages will not be
- 1.1 duplicated in the compensation otherwise awarded to the owner of the property"

1.1 Senator ..... moves to amend S.F. No. 2750 as follows:

1.2 Page 10, line 6, before "If" insert "**Subdivision 1. Judgment or award in excess**  
1.3 **of last written offer.** "

1.4 Page 10, after line 9, insert:

1.5 "**Subd. 2. Increase in market value.** If three months or more pass from the date of  
1.6 the last written offer of compensation and the filing of the petition, for the purposes of  
1.7 determining whether the final judgment or award for damages is more than 20 percent  
1.8 greater than the last written offer, the value of the offer must be adjusted on a pro rata basis  
1.9 for the annual rate of increase in the estimated market value of existing property in the  
1.10 subject property's use class within the same city or township. The annual rate of increase  
1.11 shall be derived by comparing the most recent abstract filed with the commissioner of  
1.12 revenue under section 270C.89, subdivision 1, with the abstract of the prior year."

1.13 Amend the title accordingly

1.1 Senator ..... moves to amend S.F. No. 2750 as follows:

1.2 Page 10, line 9, after the period, insert "No attorney fees and costs may be awarded  
1.3 under this section if only a portion of a property located not more than 50 feet from the  
1.4 border of the property is being acquired and the final judgment or award of damages  
1.5 does not exceed \$25,000."



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