

## ONE HUNDRED SEVENTH DAY

St. Paul, Minnesota, Tuesday, May 16, 2006

The Senate met at 10:00 a.m. and was called to order by the President.

**CALL OF THE SENATE**

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

Prayer was offered by the Chaplain, Rev. Grant Stevensen.

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

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

The President declared a quorum present.

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

**MESSAGES FROM THE HOUSE**

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 3915 and 3458.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 15, 2006

**FIRST READING OF HOUSE BILLS**

The following bills were read the first time.

**H.F. No. 3915:** A bill for an act relating to agriculture; providing for a wild rice study.

Referred to the Committee on Agriculture, Veterans and Gaming.

**H.F. No. 3458:** A bill for an act relating to health; requiring the delay of annual mass flu vaccination clinics in the event of a flu vaccine shortage; proposing coding for new law in Minnesota Statutes, chapter 144.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 3169, now on General Orders.

### REPORTS OF COMMITTEES

Senator Johnson, D.E. moved that the Committee Reports at the Desk be now adopted, with the exception of the report pertaining to appointments. The motion prevailed.

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

**H.F. No. 3718** for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
3718	3440				

Pursuant to Rule 45, the Committee on Rules and Administration recommends that H.F. No. 3718 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 3718, the fourth engrossment; and insert the language after the enacting clause of S.F. No. 3440, the second engrossment; further, delete the title of H.F. No. 3718, the fourth engrossment; and insert the title of S.F. No. 3440, the second engrossment.

And when so amended H.F. No. 3718 will be identical to S.F. No. 3440, and further recommends that H.F. No. 3718 be given its second reading and substituted for S.F. No. 3440, and that the Senate File be indefinitely postponed.

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

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

**H.F. No. 3079** for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
3079	2648				

Pursuant to Rule 45, the Committee on Rules and Administration recommends that H.F. No. 3079 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 3079, the second engrossment; and insert the language after the enacting clause of S.F. No. 2648, the second engrossment; further, delete the title of H.F. No. 3079, the second engrossment; and insert the title of S.F. No. 2648, the second engrossment.

And when so amended H.F. No. 3079 will be identical to S.F. No. 2648, and further recommends that H.F. No. 3079 be given its second reading and substituted for S.F. No. 2648, and that the Senate File be indefinitely postponed.

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

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

**H.F. No. 3144** for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

<b>GENERAL ORDERS</b>		<b>CONSENT CALENDAR</b>		<b>CALENDAR</b>	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
3144	2888				

Pursuant to Rule 45, the Committee on Rules and Administration recommends that H.F. No. 3144 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 3144, the second engrossment; and insert the language after the enacting clause of S.F. No. 2888, the second engrossment; further, delete the title of H.F. No. 3144, the second engrossment; and insert the title of S.F. No. 2888, the second engrossment.

And when so amended H.F. No. 3144 will be identical to S.F. No. 2888, and further recommends that H.F. No. 3144 be given its second reading and substituted for S.F. No. 2888, and that the Senate File be indefinitely postponed.

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

**Senator Betzold from the Committee on Judiciary, to which were referred the following appointments:**

BOARD ON JUDICIAL STANDARDS  
William J. Egan  
Cynthia C. Jepsen

Reports the same back with the recommendation that the appointments be confirmed.

Senator Johnson, D.E. moved that the foregoing committee report be laid on the table. The motion prevailed.

**SECOND READING OF HOUSE BILLS**

H.F. Nos. 3718, 3079 and 3144 were read the second time.

**MOTIONS AND RESOLUTIONS**

Senator Dibble moved that the names of Senators Rosen and Wergin be added as co-authors to S.F. No. 3440. The motion prevailed.

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

**INTRODUCTION AND FIRST READING OF SENATE BILLS**

The following bills were read the first time.

**Senator Skoe introduced—**

**S.F. No. 3810:** A bill for an act relating to health; directing the Department of Human Services to file release of liens; amending Minnesota Statutes 2005 Supplement, section 256B.15, subdivision 7.

Referred to the Committee on Health and Family Security.

**Senator Metzen introduced—**

**S.F. No. 3811:** A bill for an act relating to state government; authorizing the Minnesota Amateur Sports Commission to renew leases for certain real property; amending Laws 1998, chapter 404, section 15, subdivision 2, as amended.

Referred to the Committee on Finance.

**Senators Reiter and Ruud introduced—**

**S.F. No. 3812:** A bill for an act relating to education; requiring the Pledge of Allegiance to be recited in English; amending Minnesota Statutes 2004, section 121A.11, subdivision 3.

Referred to the Committee on Education.

**RECESS**

Senator Johnson, D.E. moved that the Senate do now recess until 11:15 a.m. The motion prevailed.

The hour of 11:15 a.m. having arrived, the President called the Senate to order.

**CALL OF THE SENATE**

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

**MOTIONS AND RESOLUTIONS - CONTINUED****SPECIAL ORDERS**

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

H.F. No. 3383, S.F. Nos. 3053, 3121 and H.F. No. 3073.

**SPECIAL ORDER**

**H.F. No. 3383:** A bill for an act relating to the city of Grand Rapids; authorizing issuance of certain capital improvement bonds.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 58 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

**SPECIAL ORDER**

**S.F. No. 3053:** A bill for an act relating to game and fish; requiring rulemaking to allow all-terrain vehicle or snowmobile use on privately owned land during legal shooting hours of a deer season.

Senator Ruud moved to amend S.F. No. 3053 as follows:

Page 1, after line 5, insert:

"Section 1. Minnesota Statutes 2005 Supplement, section 84.9256, subdivision 1, is amended to read:

Subdivision 1. **Prohibitions on youthful operators.** (a) Except for operation on public road rights-of-way that is permitted under section 84.928, a driver's license issued by the state or another state is required to operate an all-terrain vehicle along or on a public road right-of-way.

(b) A person under 12 years of age shall not:

(1) make a direct crossing of a public road right-of-way;

(2) operate an all-terrain vehicle on a public road right-of-way in the state; or

(3) operate an all-terrain vehicle on public lands or waters, except as provided in paragraph ~~(e)~~ ~~(f)~~.

(c) Except for public road rights-of-way of interstate highways, a person 12 years of age but less than 16 years may make a direct crossing of a public road right-of-way of a trunk, county state-aid, or county highway or operate on public lands and waters, only if that person possesses a valid all-terrain vehicle safety certificate issued by the commissioner and is accompanied on another all-terrain vehicle by a person 18 years of age or older who holds a valid driver's license.

(d) To be issued an all-terrain vehicle safety certificate, a person at least 12 years old, but less than 16 years old, must:

(1) successfully complete the safety education and training program under section 84.925, subdivision 1, including a riding component; and

(2) be able to properly reach and control the handle bars and reach the foot pegs while sitting upright on the seat of the all-terrain vehicle.

(e) A person at least 11 years of age may take the safety education and training program and may receive an all-terrain vehicle safety certificate under paragraph (d), but the certificate is not valid until the person reaches age 12.

(f) A person at least ten years of age but under 12 years of age may operate an all-terrain vehicle with an engine capacity up to 90cc on public lands or waters if accompanied by a parent or legal guardian."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

S.F. No. 3053 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 63 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

### SPECIAL ORDER

**S.F. No. 3121:** A bill for an act relating to financial institutions; regulating electronic financial terminals, and the expenses of organizing and incorporating banks; authorizing the investment of health savings accounts in transaction accounts; amending Minnesota Statutes 2004, section

47.62, subdivision 1; Minnesota Statutes 2005 Supplement, sections 47.75, subdivision 1; 48.15, subdivision 4; repealing Minnesota Statutes 2004, sections 46.043; 47.62, subdivision 5.

Senator Sparks moved that S.F. No. 3121 be laid on the table. The motion prevailed.

### SPECIAL ORDER

**H.F. No. 3073:** A bill for an act relating to property; modifying mechanic's lien provisions; modifying certain probate and trust provisions and clarifying the administrative powers of personal representatives to sell, mortgage, or lease property of a decedent; making clarifying, technical, and conforming changes to the Minnesota Common Interest Ownership Act; amending Minnesota Statutes 2004, sections 514.10; 524.3-301; 524.3-715; 524.3-803; Minnesota Statutes 2005 Supplement, sections 253B.23, subdivision 2; 515B.1-102; 515B.2-101; 515B.2-110; 515B.2-112; 515B.2-121; 515B.3-115; 515B.3-117; 515B.4-101; 515B.4-102; 548.27.

Senator McGinn moved to amend H.F. No. 3073, as amended pursuant to Rule 45, adopted by the Senate April 5, 2006, as follows:

(The text of the amended House File is identical to S.F. No. 2519.)

Page 2, after line 4, insert:

**"Sec. 2. [501B.561] CERTIFICATE OF CUSTODIANSHIP.**

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

- (1) the name of the custodianship, if one is given;
- (2) the date of the custodianship instrument;
- (3) the name of each owner of property held in the custodianship;
- (4) the name of each original custodian;
- (5) the name and address of each custodian empowered to act under the custodianship instrument at the time of execution of the certificate;
- (6) the following statement: "The custodians are authorized by the instrument to sell, convey, pledge, mortgage, lease, or transfer title to any interest in real or personal property, except as limited by the following: (if none, so indicate)";
- (7) any other custodianship provisions the custodians or owners of property held in the custodianship include; and
- (8) a statement as to whether the custodianship instrument has terminated or been revoked.

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

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

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

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

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

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

**Sec. 3. [501B.571] AFFIDAVIT OF CUSTODIAN IN REAL PROPERTY TRANSACTIONS.**

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

STATE OF  
MINNESOTA )

AFFIDAVIT OF CUSTODIAN

) ss.

COUNTY OF )

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

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

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

OR

to which this Affidavit is attached,

executed by Affiant or another custodian or by the owner of the property that is held in the custodianship described in the Certificate of Custodianship (or set forth in the Custodianship



Instrument), and which relates to real property in ..... County, Minnesota, legally described as follows:

.....  
.....

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

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

.....  
.....

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

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

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

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

- OR -

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

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

6. The custodianship is not supervised by any court.

- OR -

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

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

.....  
Subscribed and sworn to before me ..... , Affiant  
this .... day of ....., ..

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

This instrument was drafted by:  
.....  
.....

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

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

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

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

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

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

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

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

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

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

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

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Neuville moved that H.F. No. 3073 be laid on the table. The motion prevailed.

### MOTIONS AND RESOLUTIONS - CONTINUED

Senator Sparks moved that S.F. No. 3121 be taken from the table. The motion prevailed.

**S.F. No. 3121:** A bill for an act relating to financial institutions; regulating electronic financial terminals, and the expenses of organizing and incorporating banks; authorizing the investment of health savings accounts in transaction accounts; amending Minnesota Statutes 2004, section 47.62, subdivision 1; Minnesota Statutes 2005 Supplement, sections 47.75, subdivision 1; 48.15, subdivision 4; repealing Minnesota Statutes 2004, sections 46.043; 47.62, subdivision 5.

Senator Tomassoni moved to amend S.F. No. 3121 as follows:

Page 3, after line 21, insert:

"Sec. 4. Minnesota Statutes 2004, section 169A.63, subdivision 11, is amended to read:

**Subd. 11. Sale of forfeited vehicle by secured party.** (a) A financial institution with a valid

security interest in or a valid lease covering a forfeited vehicle may choose to dispose of the vehicle under this subdivision, in lieu of the appropriate agency disposing of the vehicle under subdivision 9. A financial institution wishing to dispose of a vehicle under this subdivision shall notify the appropriate agency of its intent, in writing, within 30 days after receiving notice of the seizure and forfeiture. The appropriate agency shall release the vehicle to the financial institution or its agent after the financial institution presents proof of its valid security agreement or of its lease agreement ~~and the financial institution agrees not to sell the vehicle to a member of the violator's household, unless the violator is not convicted of the offense on which the forfeiture is based.~~ The financial institution shall dispose of the vehicle in a commercially reasonable manner as defined in section 336.9-610.

(b) After disposing of the forfeited vehicle, the financial institution shall reimburse the appropriate agency for its seizure, storage, and forfeiture costs. The financial institution may then apply the proceeds of the sale to its storage costs, to its sale expenses, and to satisfy the lien or the lease on the vehicle. If any proceeds remain, the financial institution shall forward the proceeds to the state treasury, which shall credit the appropriate fund as specified in subdivision 9."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

S.F. No. 3121 was read the third time, as amended, and placed on its final passage.

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

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

Those who voted in the affirmative were:

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

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

### MOTIONS AND RESOLUTIONS - CONTINUED

Senator Hottinger moved that S.F. No. 2833 be taken from the table. The motion prevailed.

**S.F. No. 2833:** A bill for an act relating to human services; providing an exception for notification of a variance or set-aside; amending Minnesota Statutes 2005 Supplement, sections 245C.22, subdivision 7; 245C.301.

Senator Berglin withdrew her pending amendment.

Senator Hottinger moved that S.F. No. 2833 be laid on the table. The motion prevailed.

**MOTIONS AND RESOLUTIONS - CONTINUED**

Senator Neuville moved that H.F. No. 3073 be taken from the table. The motion prevailed.

**H.F. No. 3073:** A bill for an act relating to property; modifying mechanic's lien provisions; modifying certain probate and trust provisions and clarifying the administrative powers of personal representatives to sell, mortgage, or lease property of a decedent; making clarifying, technical, and conforming changes to the Minnesota Common Interest Ownership Act; amending Minnesota Statutes 2004, sections 514.10; 524.3-301; 524.3-715; 524.3-803; Minnesota Statutes 2005 Supplement, sections 253B.23, subdivision 2; 515B.1-102; 515B.2-101; 515B.2-110; 515B.2-112; 515B.2-121; 515B.3-115; 515B.3-117; 515B.4-101; 515B.4-102; 548.27.

Senator Neuville moved to amend H.F. No. 3073, as amended pursuant to Rule 45, adopted by the Senate April 5, 2006, as follows:

(The text of the amended House File is identical to S.F. No. 2519.)

Page 2, after line 4, insert:

"Sec. 2. Minnesota Statutes 2004, section 272.44, is amended to read:

**272.44 TAXES PAID BY LIEN HOLDERS ARE AN ADDITIONAL ADDED TO LIEN.**

Any person who has a lien, by mortgage or otherwise, upon any land upon which the taxes have not been paid when they came due, may pay such taxes before or after the same become delinquent, and the interest, penalty, and costs, if any, thereon; and the money so paid shall be ~~an additional added to the~~ added to the lien on such land; and, with the interest thereon at the rate specified in the mortgage ~~or~~, other instrument, or by law, shall be collectible with, as a part of, and in the same manner as the amount secured by the original lien. No interest shall accrue on the taxes so paid by such ~~mortgagee lienholder~~ prior to June first of the year in which such taxes become due and payable.

Sec. 3. Minnesota Statutes 2004, section 272.45, is amended to read:

**272.45 TAXES PAID BY TENANT, OCCUPANT, OR OTHER PERSON BECOME LIEN, UPON NOTICE FILED WITH COUNTY RECORDER OR REGISTRAR OF TITLES.**

When any past due or delinquent tax on land is paid by or collected from any occupant or, tenant, or any other person with an interest in the land other than a lien, or a person acting on that person's behalf, which, by agreement or otherwise, ought to have been paid by the owner, lessor, or other party in interest, such occupant, tenant, or other person may recover by action the amount which such owner, lessor, or party in interest ought to have paid, with interest thereon at the rate of 12 percent per annum, or may retain the same from any rent due or accruing from the person to such owner or lessor for land on which such tax is so paid. Any such A person making such a payment under this section may file with the county recorder or registrar of titles of the proper county a notice stating the amount and date of such payment, and whether paid as occupant, tenant, or otherwise stating the interest claimed in the land, with a description of the land against which the taxes were charged; and the same shall thereupon be a lien upon such land in favor of the person paying the same until the same is paid. The county recorder shall record such notice in the book of miscellaneous records indices maintained by the county recorder. The registrar of titles shall record the notice on the certificate of title for the land. Upon the payment of any such lien, the person filing such notice shall satisfy the same of record."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Neuville moved to amend H.F. No. 3073, as amended pursuant to Rule 45, adopted by the Senate April 5, 2006, as follows:

(The text of the amended House File is identical to S.F. No. 2519.)

Page 25, after line 2, insert:

"Sec. 12. Minnesota Statutes 2004, section 518.191, subdivision 2, is amended to read:

Subd. 2. **Required information.** A summary real estate disposition judgment must contain the following information:

(1) the full caption and file number of the case and the title "Summary Real Estate Disposition Judgment";

(2) the dates of the parties' marriage and of the entry of the judgment and decree of dissolution;

(3) the names of the parties' attorneys or if either or both appeared pro se;

(4) the name of the judge and referee, if any, who signed the order for judgment and decree;

(5) whether the judgment and decree resulted from a stipulation, a default, or a trial and the appearances at the default or trial;

(6) if the judgment and decree resulted from a stipulation, whether the real property was described by a legal description;

(7) if the judgment and decree resulted from a default, whether the petition contained the legal description of the property and whether disposition was made in accordance with the request for relief;

(8) whether the summons and petition were served personally upon the respondent pursuant to the Rules of Civil Procedure, Rule 4.03(a), or section 543.19;

(9) if the summons and petition were served on the respondent only by publication, the name of each legal newspaper and county in which the summons and petition were published and the dates of publications;

(10) whether either party changed the party's name through the judgment and decree;

~~(7)~~ (11) the legal description of each parcel of real estate;

~~(8)~~ (12) the name or names of the persons awarded an interest in each parcel of real estate and a description of the interest awarded;

~~(9)~~ (13) liens, mortgages, encumbrances, or other interests in the real estate described in the judgment and decree; and

~~(10)~~ (14) triggering or contingent events set forth in the judgment and decree affecting the disposition of each parcel of real estate.

Sec. 13. Minnesota Statutes 2004, section 518.191, is amended by adding a subdivision to read:

Subd. 2a. **Amended summary real estate disposition judgment.** (a) On the court's own motion or on application by an interested person, the court shall issue an order authorizing the court administrator to issue an amended summary real estate disposition judgment to correct an erroneous legal description of real estate contained in the judgment and decree of dissolution.

(b) An application to correct a legal description under this subdivision must contain:

(1) the erroneous legal description contained in the judgment and decree;

(2) the correct legal description of the real estate;

(3) written evidence satisfactory to the court to show the correct legal description, or a request for an evidentiary hearing to produce evidence of the correct legal description; and

(4) a proposed amended summary real estate disposition judgment.

(c) The court shall consider an application under this subdivision on an expedited basis. The court's order must be based on the evidence provided in the application, the evidence produced at an evidentiary hearing, or the evidence already in the record of the proceeding. If the court is satisfied that an erroneous legal description should be corrected under this subdivision, the court may issue its order without a hearing or notice to any person. A filing fee is not required for an application under this subdivision. The court's order must be treated as an amendment of the court's findings of fact regarding the legal description of the property in question, without the need to amend the original judgment and decree. The court shall issue the order if the court specifically finds that the court had jurisdiction over the respondent in the dissolution proceeding and that the property was sufficiently identified in the original proceedings to prevent prejudice to the rights of either party to the dissolution and that the amendment will not prejudice their rights. The court's order is effective retroactive to the date of entry of the original judgment and decree of dissolution.

(d) An amended summary real estate disposition judgment must be treated the same as the prior summary real estate disposition judgment for all purposes.

(e) On request by any interested person, the court administrator shall provide a certified copy of an amended summary real estate disposition judgment showing the correct legal description of the real property affected by the judgment and decree.

(f) This subdivision may not be used to add omitted property to a judgment and decree of dissolution, unless the court determines that the omitted property is an integral or appurtenant part of real property already properly included in the judgment and decree.

Sec. 14. Minnesota Statutes 2004, section 518.191, subdivision 4, is amended to read:

Subd. 4. **Transfer of property.** The summary real estate disposition judgment operates as a conveyance and transfer of each interest in the real estate in the manner and to the extent described in the summary real estate disposition judgment. A summary real estate disposition judgment, or an amended summary real estate disposition judgment that supersedes an earlier judgment, is prima facie evidence of the facts stated in the summary real estate disposition judgment. A purchaser for value without notice of any defect in the dissolution proceedings may rely on a summary real estate disposition judgment or a later amended summary real estate disposition judgment to establish the facts stated in the judgment."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Neuville moved that H.F. No. 3073 be laid on the table. The motion prevailed.

### MOTIONS AND RESOLUTIONS - CONTINUED

Senator Hottinger moved that S.F. No. 2833 be taken from the table. The motion prevailed.

**S.F. No. 2833:** A bill for an act relating to human services; providing an exception for notification of a variance or set-aside; amending Minnesota Statutes 2005 Supplement, sections 245C.22, subdivision 7; 245C.301.

Senator Berglin moved to amend S.F. No. 2833 as follows:

Page 2, after line 19, insert:

"Sec. 2. Minnesota Statutes 2005 Supplement, section 245C.24, subdivision 2, is amended to read:

Subd. 2. **Permanent bar to set aside a disqualification.** (a) Except as provided in paragraph (b), the commissioner may not set aside the disqualification of any individual disqualified pursuant to this chapter, regardless of how much time has passed, if the individual was disqualified for a crime or conduct listed in section 245C.15, subdivision 1.

(b) For an individual who is working in the chemical dependency field who was disqualified for a crime or conduct listed under section 245C.15, subdivision 1, and whose disqualification was set aside prior to July 1, 2005, the commissioner must consider granting a subsequent set aside for the same or different license holder based on the evaluation under section 245C.22, subdivision 4. A request for reconsideration evaluated under this paragraph must include a letter of recommendation from the license holder that was subject to the prior set aside decision addressing the individual's quality of care to children or vulnerable adults and the circumstances of the individual's departure from that service."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

### CALL OF THE SENATE

Senator LeClair imposed a call of the Senate for the balance of the proceedings on S.F. No. 2833. The Sergeant at Arms was instructed to bring in the absent members.

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

S.F. No. 2833 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 51 and nays 14, as follows:

Those who voted in the affirmative were:

Anderson	Fischbach	Kubly	Ortman	Skoglund
Bakk	Foley	Langseth	Pappas	Solon
Belanger	Frederickson	Lourey	Pogemiller	Sparks
Berglin	Hann	Marko	Ranum	Stumpf
Betzold	Higgins	Marty	Rest	Tomassoni
Bonoff	Hottinger	Metzen	Robling	Vickerman
Chaudhary	Johnson, D.E.	Michel	Rosen	Wiger
Clark	Kelley	Moua	Saxhaug	
Cohen	Kierlin	Murphy	Scheid	
Dibble	Kiscaden	Neuville	Senjem	
Dille	Koering	Olson	Skoe	

Those who voted in the negative were:

Bachmann	Johnson, D.J.	Larson	McGinn	Ruud
Day	Jungbauer	LeClair	Nienow	Wergin
Gerlach	Koch	Limmer	Reiter	

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

**MOTIONS AND RESOLUTIONS - CONTINUED**

Senator Neuville moved that H.F. No. 3073 be taken from the table. The motion prevailed.

**H.F. No. 3073:** A bill for an act relating to property; modifying mechanic's lien provisions; modifying certain probate and trust provisions and clarifying the administrative powers of personal representatives to sell, mortgage, or lease property of a decedent; making clarifying, technical, and conforming changes to the Minnesota Common Interest Ownership Act; amending Minnesota Statutes 2004, sections 514.10; 524.3-301; 524.3-715; 524.3-803; Minnesota Statutes 2005 Supplement, sections 253B.23, subdivision 2; 515B.1-102; 515B.2-101; 515B.2-110; 515B.2-112; 515B.2-121; 515B.3-115; 515B.3-117; 515B.4-101; 515B.4-102; 548.27.

Senator Dibble moved to amend H.F. No. 3073, as amended pursuant to Rule 45, adopted by the Senate April 5, 2006, as follows:

(The text of the amended House File is identical to S.F. No. 2519.)

Page 6, after line 22, insert:

"Sec. 4. Minnesota Statutes 2005 Supplement, section 515B.1-106, is amended to read:

**515B.1-106 APPLICABILITY OF LOCAL REQUIREMENTS.**

(a) Except as provided in subsections (b) and (c), a zoning, subdivision, building code, or other real estate use law, ordinance, charter provision, or regulation may not directly or indirectly prohibit the common interest community form of ownership or impose any requirement upon a common interest community, upon the creation or disposition of a common interest community or upon any part of the common interest community conversion process which it would not impose upon a physically similar development under a different form of ownership. Otherwise, no provision of this chapter invalidates or modifies any provision of any zoning, subdivision, building code, or other real estate use law, ordinance, charter provision, or regulation.

(b) Subsection (a) shall not apply to any ordinance, rule, regulation, charter provision or contract provision relating to the financing of housing construction, rehabilitation, or purchases provided by or through a housing finance program established and operated pursuant to state or federal law by a state or local agency or local unit of government.

(c) A statutory or home rule charter city, pursuant to an ordinance or charter provision establishing standards to be applied uniformly within its jurisdiction, may prohibit or impose reasonable conditions upon the conversion of buildings occupied wholly or partially for residential use to the common interest community form of ownership only if there exists within the city a significant shortage of suitable rental dwellings available to low and moderate income individuals or families or to establish or maintain the city's eligibility for any federal or state program providing direct or indirect financial assistance for housing to the city. Prior to the adoption of an ordinance pursuant to the authority granted in this subsection, the city shall conduct a public hearing. Any ordinance or charter provision adopted pursuant to this subsection shall not apply to any existing or proposed conversion common interest community (i) for which a bona fide loan commitment for a consideration has been issued by a lender and is in effect on the date of adoption of the ordinance or charter provision, or (ii) for which a notice of conversion or intent to convert required by section 515B.4-111, containing a termination of tenancy, has been given to at least 75 percent of the tenants and subtenants in possession prior to the date of adoption of the ordinance or charter provision.

(d) For purposes of providing marketable title, a statement in the declaration that the common interest community is not subject to an ordinance or that any conditions required under an ordinance have been complied with shall be prima facie evidence that the common interest community was not created in violation of the ordinance.

(e) A violation of an ordinance or charter provision adopted pursuant to the provisions of



subsection (b) or (c) shall not affect the validity of a common interest community. This subsection shall not be construed to in any way limit the power of a city to enforce the provisions of an ordinance or charter provision adopted pursuant to subsection (b) or (c).

(f) Any ordinance or charter provision enacted hereunder that prohibits the conversion of buildings to the common interest community form of ownership shall not be effective for a period exceeding 18 months."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

H.F. No. 3073 was read the third time, as amended, and placed on its final passage.

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

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

Those who voted in the affirmative were:

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

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

### MOTIONS AND RESOLUTIONS - CONTINUED

Senator Frederickson moved that S.F. No. 762 be taken from the table. The motion prevailed.

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

Senator Frederickson moved that the Senate do not concur in the amendments by the House to S.F. No. 762, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

### RECESS

Senator Johnson, D.E. moved that the Senate do now recess subject to the call of the President. The motion prevailed.

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

**APPOINTMENTS**

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

S.F. No. 762: Senators Frederickson, Hottinger and Skoe.

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

**MEMBERS EXCUSED**

Senator Pariseau was excused from the Session of today. Senator Rest was excused from the Session of today from 10:00 to 11:45 a.m. Senator Scheid was excused from the Session of today from 11:15 to 11:35 a.m. Senator Ortman was excused from the Session of today from 11:25 to 11:45 a.m. Senator Sams was excused from the Session of today at 12:15 p.m.

**ADJOURNMENT**

Senator Johnson, D.E. moved that the Senate do now adjourn until 10:00 a.m., Wednesday, May 17, 2006. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate

