

STATE OF MINNESOTA

OCT 23 2006

IN SUPREME COURT

FILED

A06-1871

Tim Breza, Larry Buboltz,
Dan Dorman, Morrie Lanning,
Michael Lang, Keith Langseth,
Jerry Miller, H. Dan Ness,
Tom Rukavina, Kathy Serva,
Eric Sorensen, Mark Voxland,
Lauri Winterfeldt-Shanks,

Petitioners,

vs.

**MOTION
FOR LEAVE TO FILE
PETITIONERS'
SUPPLEMENTAL APPENDIX**

Mary Kiffmeyer, Minnesota
Secretary of State,

Respondent.

Douglas Peine
Atty. Reg. No. 84979
2460 Beverly Road
St. Paul, Minnesota 55104
612.308.0014

ATTORNEY FOR PETITIONERS

Pursuant to Appellate Rule 127, Petitioners hereby move the Court for leave to file the attached Supplemental Appendix. This motion is made on the basis of the following:

1. This matter was commenced by a Petition pursuant to Minnesota Statutes 204B.44 asking the Court to enjoin an election on a ballot question concerning amendment of Article XIV of the Minnesota Constitution.

2. Petitioners allege that the ballot question is misleading and deceptive.

3. As a part of Petitioners' proof of this allegation, we have attached to our memoranda several newspaper, radio, and television news stories about the amendment.

4. Since our last Memorandum filed on October 17th, six additional media stories have come to our attention which bear on the issue, including one in today's StarTribune.

5. Those stories are attached in the proposed Petitioners' Supplemental Appendix.

6. Oral argument is scheduled for this Wednesday, October 25th. Rather than simply bring these articles to the oral argument, we have sought to better serve the Court and the parties by filing this motion today.

7. For these reasons, we ask the Court for leave to file the Supplemental Appendix.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Douglas Peine', written in a cursive style.

Douglas Peine
Atty.Reg.No. 84979
2460 Beverly Road
St. Paul, Minnesota 55104
612-308-0014

DATED: 10/23/06

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Making Minnesota work

Speaker of the House Steve Sviggum was at SMSU on Wednesday to talk about the state of the state and his views on campaign issues.

By Deb Gau

dgau@marshallindependent.com

MARSHALL — When asking a question of Minnesota Speaker of the House Steve Sviggum, students at a meeting of Southwest Minnesota State University's College Republicans could expect two answers — one dealing with policy, and the other with politics.

"I believe good policy and good politics go hand in hand," Sviggum told a small group of students. "The day I stop believing that, I'll go back to the farm."

Sviggum, R-Kenyon, was in Marshall on a short campaign stop hosted by District 21A Rep. Marty Seifert, R-Marshall. Sviggum took audience questions and shared both his own views and the GOP's on several different campaign issues.

Sviggum emphasized that "Minnesota does work," citing positive factors like the state's budget surplus and high standardized test scores. However, he added that political balance is needed to keep Minnesota working — in particular a Republican-controlled House of Representatives to balance out DFL influences in the state Senate.

Tax reforms are one major area of concern for the Republicans, Sviggum said.

The party would like to see reduced education levy mandates, military pension exclusions, tax credits for Minnesota dairy farmers and other forms of tax relief.

Senate leaders stopped several of those bills, Sviggum said.

"They wanted to keep the campaign issue alive," he said. "That sounds really cynical to me."

Other key issues for Sviggum include transportation, health care reform and educational funding and equity.

One audience member asked Sviggum for his take on the state's transportation amendment, which will be on the ballot this November.

"I do not think it is great," Sviggum said. "I do believe it is good. It's better than nothing."

The amendment would set aside \$300 million per year for transit, roads and bridges in Minnesota, Sviggum explained.

Of that funding, at least 40 percent is supposed to go toward transit systems, which would mainly benefit the Twin Cities area, and the remaining 60 percent toward roads and bridges in greater Minnesota.

Sviggum said the House had wanted hard numbers in the amendment to ensure 60/40 funds distribution, but the Senate again would not agree.

"(The voters) have got to make a decision whether it's better than nothing. I think it's better than nothing," Sviggum said.

Equity in funding for education was also something Sviggum said he would like to see in Minnesota.

<http://www.marshallindependent.com/printPage.asp?articleID=6788>

10/23/2006

Posted: 10/19/06

ECM EDITORIAL BOARD: Support transportation amendment on Nov. 7

A remarkable coalition of Minnesota interests is urging passage of the transportation constitutional amendment on the Nov. 7.

They include counties, cities, townships, environmental groups, transit advocates, truckers, giant corporations and small firms. They're voicing collective frustration caused by years of chronic inattention to the state's most pressing transportation needs.

State leaders shouldn't be let off the hook for not minding our growing congestion, deteriorating road conditions and patchy transit systems. Perhaps the worst result of a successful ballot measure would be giving elected officials cover to continue behaving as though we don't have serious transportation problems.

But the opportunity afforded on Election Day mustn't be ignored.

A majority of "yes" votes on all ballots cast is needed to dedicate 100 percent of motor vehicle sales tax revenue to transportation. The Legislature actually ordered this in 1981. As years passed, lawmakers found it convenient to use the revenue to patch budget holes instead. The goal was to treat the vehicle sales tax as a user fee — like the constitutionally dedicated gas tax and vehicle registration tax — and complete the 100-percent transfer by 1990. Instead, only 54 percent of vehicle sales tax revenue now goes to transportation.

By amending the state constitution, voters have the chance to add \$300 million a year in transportation spending. It isn't enough, supporters admit. According to the Transportation Policy Institute, meeting Minnesota's existing transportation needs would require an extra \$1 billion annually.

But think about what the state's failure to build an adequate revenue stream for transportation has bought us. The metro area's marquee road project, the Crosstown Commons separation, has gone begging yet again because the Department of Transportation lacks funds. Other planned projects have been delayed, including those needed to make some rural roads less dangerous. Sixty-five percent of Twin Cities freeway travel occurs under congested conditions, the Minnesota Transportation Alliance reported in 2002.

The amendment would require that up to 60 percent of the vehicle sales tax revenue be spent on roads and bridges. At least 40 percent would be dedicated to transit, a milestone for bus and rail funding in Minnesota.

If the amendment passes, the transfer of revenue to transportation will be phased in over five years, eventually reaching \$300 million. That's not a tax increase. The money would come from the general fund, which pays for schools, health care and other crucial programs.

Lawmakers have been chronically unable to agree on transportation funding, the gas tax in particular, which hasn't been raised since 1988. That's not likely to change soon, with the two most popular candidates for governor opposing a gas-tax hike. But both support the transportation amendment, demonstrating its cross-partisan appeal. We hope voters join them.

-- (This editorial is the product of the ECM Editorial Board.)

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<http://www.hometownsource.com/2006/October/19transportation.html>

10/23/2006

Argus Shopper

Dairyland Peach

Scotsman

Star News Weekender

St. Croix Valley Peach

Town & Country Shopper

Posted on Sun, Oct. 22, 2006

Transportation amendment is a common-sense first step

Minnesota's transportation amendment is our best opportunity in the past 20 years to begin to address the need for long-term funding for highways and transit. And it accomplishes that goal without raising taxes. More than a thousand organizations from across the state agree that this is no silver bullet to our transportation needs, but it is an important and necessary first step.

In that regard, we respectfully disagree with the St. Paul Pioneer Press editorial of Oct. 15 -- 'Vote Yes?' -- which opposed the amendment.

Minnesota's transportation amendment dedicates all of the sales tax we pay when we purchase a car or truck to roads and transit. The idea is straightforward: Use all of our existing transportation taxes for transportation. But the idea is certainly not original:

The gas taxes and vehicle license tab fees we pay already are dedicated in the state constitution. Minnesota's transportation amendment will finally dedicate all of the sales tax we pay on the purchase of new and used cars and trucks to transportation projects.

Twenty-five years ago, the Legislature voted to dedicate the motor vehicle sales tax for transportation projects. But every year, some or all of this money has been diverted for other purposes. Right now, only 54 percent of this transportation tax actually goes to transportation. Overall, \$6 billion of that has been diverted from transportation.

Transportation funding in Minnesota has stalled for more than two decades. As a result, important metro projects such as the Wakota Bridge, Central Corridor rail and full upgrades to Highway 36 haven't moved forward. That means we all are sitting a lot longer in traffic. A recent Census Bureau study showed continuation of this frustrating trend: Longer commute times due to congestion as well as residential sprawl in the Twin Cities.

The situation also is worsening in rural Minnesota. Select any region and important projects remain on the drawing boards. Highway 53 in the north, Highway 23 in central Minnesota and Highway 14 in the south are just a few examples. Substandard roads result in unsafe roads. In 2005, 70 percent of all fatal crashes occurred in rural areas.

Minnesota's transportation amendment will dedicate 100 percent of the existing sales tax on motor vehicles to improving our highways and public transit systems statewide. The amendment will provide balanced investments in rural and metro communities for roads, bridges, highways, buses and rail systems, creating a transportation system that serves all Minnesotans, without increasing taxes.

And while providing significant new money for transportation, Minnesota's transportation amendment will have a minimal impact on the state budget. The additional \$300 million each year would be phased in over five years -- \$60 million a year. The amendment addresses new money only. In that regard, state revenue has grown an average of \$660 million each of the last five years. Assuming trends in state spending continue, the amendment will dedicate one dime out of every dollar in new revenue. The other 90 percent will go to important state needs such as education and health care.

If the voters do not approve Minnesota's transportation amendment, we are back to square one. Minnesotans will run the risk that more of the motor vehicle sales tax will be used for other purposes, further reducing funding for roads and transit. That's right -- without Minnesota's transportation amendment, the Legislature could use all of these transportation taxes for other purposes.

More than 1,000 organizations have joined Minnesotans for Better Roads and Transit in support of this common-sense proposal. Members and supporters represent business and labor groups, local governments and nonprofits, environmental, agricultural and safety advocates and rank-and-file citizens statewide.

We have all joined together for one reason. We're frustrated, and we are tired of waiting in traffic or traveling on unsafe roads. We cannot wait any longer for the transportation funding gridlock to break loose -- especially when a

<http://www.twincities.com/mld/twincities/news/editorial/15810693.htm?template=conten...> 10/23/2006

common-sense approach such as Minnesota's transportation amendment is available now.

Minnesotans should race to the polls — at least as fast as they can on today's crowded highways — to vote yes on Minnesota's transportation amendment on Nov. 7.

Bill Hargis is mayor of Woodbury and an executive committee member of the Regional Council of Mayors. Rafael Ortega is a Ramsey County commissioner and chairman of the Regional Rail Authority.

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Posted on Mon, Oct. 23, 2006

Minnesota gubernatorial candidates on the issues

Associated Press

Q. What approach would you take on roads and transit?

Tim Pawlenty (Republican):

The Pawlenty-Molnau administration has invested more in transportation than any other administration in state history. Through good management, approximately \$3 billion will be spent on road construction during this administrations first term.

2005 was the largest construction season ever, with more than 200 highway projects under construction valued at \$1.7 billion. In 2006, more than 170 projects are under construction valued at \$1.5 billion 41 in the Twin Cities and 131 in Greater Minnesota.

Reducing congestion and increasing capacity for product movements are the metro areas principal transportation challenges. These quality of life and economic priorities require a focus on expanding highways and wise transit investment. Our record of metro investment in roads and transit, including the Northstar Commuter Line, is larger than any in history.

I strongly support the Minnesota Transportation Amendment (MTA). When approved, \$300 million per year will be available for improving and expanding highways and transit statewide by the year 2012. This will fund \$2.5 billion in specific improvement projects throughout the state over the next 10 years, approximately \$1.25 billion in the metro area. Some targeted metro projects include expansion of I-35W, Hwy. 100, Hwy. 169, the completion of new Hwy. 610, expansion of I-35W in Minneapolis and the I-494/694 ring.

Moving forward, we all must remain engaged on transportation issues, be clear in articulating transportation investments and policy, and insist that legislators set aside political agendas to work on consensus solutions that have real opportunity to become state law.

Peter Hutchinson (Independence Party):

Sustainable economic growth depends on a comprehensive transportation system that maintains our roads and improves the system capacity with timely investment. Farmers, manufacturers, commuters, and other travelers all need reliable transportation, or productivity suffers and we all pay more. Today the state postpones or cancels projects, relies on borrow-now-pay-later gimmicks to build individual projects, and shoves the debt onto future generations.

As governor, Ill appoint a transportation commissioner who will be held accountable for results. Ill see that the Legislature re-passes the 2005 bipartisan transportation bill that the governor vetoed. Ill sign it and dedicate of all motor vehicle sales tax revenue to transportation a fundamental part of the transportation budget.

I want to make transportation investment decisions based on their expected contribution to improving key elements of the system, not on politics; get serious about building a system of transit in the metro area; and, hold users responsible for their impact on the reliability and safety of roads we share.

As for the MVST Constitutional Amendment on the November ballot - I oppose it, because its unnecessary. Minnesotans are willing to pay the price for better roads and a better transportation system. Our leaders should do the jobs they were elected to do: dedicate the money from MVST by law and make it stick. Its cowardly for them to push the job off on voters and say, "You do this." And, its never good policy to cram these financial decisions into the state Constitution, sealing up flexibility for all time.

<http://www.twincities.com/mld/twincities/news/state/minnesota/15825813.htm?template=...> 10/23/2006

Mike Hatch (Democrat):

We face various challenges in addressing our transportation needs.

First, we need to utilize federal transportation funds allocated to our State. Recently, Gov. Pawlenty rejected \$56 million in federal money which was allocated to modernize Highway 169 and Highway 53 in northern Minnesota. The funds were lost because the state of Minnesota was unwilling to match the \$56 million in federal money with \$11 million in state funds. This construction would have generated over \$180 million in economic activity and over \$5 million in state revenue.

Second, we need to approach our transportation system on a "one state" basis. It was a mistake for Gov. Pawlenty to "borrow" \$100 million from the rural highway account to build roads in the metropolitan area. Two-thirds of highway deaths and personal injuries occur in rural areas. Rural highways desperately need maintenance.

Third, Minnesota should adopt a "pay-as-you-go" approach to highway construction. This "pay-as-you-go" approach was utilized until 2003, when the governor issued several hundred million dollars in bonds to pay for highway construction. These bonds become due in 2007 and, as a result, there will undoubtedly be a transportation budget crisis in the 2007 session.

Finally, the state should create a metropolitan transit district which would plan and implement mass transit systems. Such an approach was successfully utilized in Denver and Atlanta.

A healthy transportation system is important to our business community and our quality of life. We need real leadership on this issue.

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Posted on Mon, Oct. 23, 2006

Does more for roads mean less for schools?

Ballot amendment to shift money to transportation worries some parents

BY PAUL TOSTO
Pioneer Press

Bump along some of Minnesota's roads, catch a pothole or two, and it's easy to understand the appeal of a November ballot measure that would channel hundreds of millions of dollars more to public transportation.

A "Yes" vote Nov. 7 would amend the state constitution to require every dollar from Minnesota's motor vehicle taxes be spent on transportation projects, from roads to trains. Scores of groups, including truckers and some environmental organizations, back it. Even Republican Gov. Tim Pawlenty and DFL challenger Mike Hatch agree on it.

But the money has to come from somewhere, and opponents say schools will take the hit. Right now, nearly half the state's motor vehicle taxes pour into the general fund, which pays mainly for public schools and colleges. So if a constitutional amendment requires all vehicle taxes go to roads and transit, they argue, education has to lose.

Supporters say it won't hurt education or health care because the money will shift out of the general fund and into transportation over five years and that it's "very likely" growth in state tax revenues will fill the breach.

"We are hearing that this constitutional amendment will solve all of our state's transportation woes at no cost to us," said Mary Cecconi, executive director of Parents United for Public Schools, an education advocacy group. "We all have to ask the question: what will fill the hole that will be left in the general fund?"

Minnesotans pay 6.5 percent tax on the sale of new and used motor vehicles. In the 1980s, lawmakers dedicated all that tax money to transit and transportation. But that was tweaked over the years to meet other state needs.

Amendment backers say more than \$6 billion in transportation taxes has gone for things other than transportation the past 25 years. Given concerns about roads, bridges and transit, they say it makes sense again to order all motor vehicle tax money to transportation and write it into the constitution so lawmakers can't tap it for other needs.

By 2012, supporters say, the amendment will add \$300 million for transportation, with as much as 60 percent spent for roads and bridges and 40 percent for transit projects, such as light rail. St. Paul Mayor Chris Coleman calls the amendment critical to building the Central Corridor light-rail project linking St. Paul and Minneapolis.

"We're not talking about a huge shift under any circumstances," said Rick Krueger, head of the Minnesota Transportation Alliance, one of the amendment's chief backers.

Despite the public cash at stake and the worries about roads versus schools, the debate hasn't really caught the public's eye. That might be because Pawlenty and Hatch both support it. Peter Hutchinson, the Independence Party candidate for governor, supports its "intent" though argues an amendment is the wrong way to do it.

Earlier this month, several lawmakers asked the Minnesota Supreme Court to pull the amendment off the ballot, arguing the way it was worded was too confusing. There's also scattered worry that dedicating "at least" 40 percent to transit will shoot more money to Twin Cities light rail and less, maybe none, to outstate projects.

Some experts also worry referendums are simply a poor way to do public business.

"If the transportation amendment passes, (motor vehicle sales tax revenues) will go to transportation. There will not even be a discussion about whether there are better uses. ... It takes those dollars off the table," said Nan Madden, director of the Minnesota Budget Project, part of the Minnesota Council of Nonprofits.

Her group doesn't take a position on the transportation question but opposes using constitutional amendments to make budget decisions. She and others say there's nothing to stop lawmakers from debating and creating a law that

<http://www.twincities.com/mld/pioneerpress/15825267.htm?template=contentModules/pr...> 10/23/2006

puts all the sales tax money into transit and roads.

Practically speaking, Krueger said, that won't happen. Without a constitutional amendment, the sales tax money "doesn't get transferred."

Krueger knows that well. He's a former Minnesota House lawmaker who says that in the early 1980s he voted to let the Legislature use the motor vehicle taxes for the general fund — the opposite of the position he's staked out as head of the transportation alliance.

"I suspect I voted in favor of un-dedicating," he said. "That was in an era when the state was in dire straits — increasing taxes and cutting services. It was an ugly year."

Paul Tosto can be reached at ptosto@pioneerpress.com or 651-228-2119.

Recent amendments to the Minnesota Constitution

1988: Permits the legislature to authorize a lottery.

1990: Dedicates 40 percent of the state lottery proceeds to the environment until 2001.

1994: Would have permitted off-track betting on horse racing (rejected).

1996: Authorizes a bonus for Gulf War veterans; provides for recall of elected state officials.

1998: Extends use of lottery money for environment; preserves hunting and fishing heritage; abolishes office of state treasurer.

Source: Minnesota House Research Voters decide Nov. 7 on a state constitutional amendment that would dedicate all motor vehicle sales tax revenue to transportation and transit spending.

A "yes" vote would: Shift hundreds of millions of dollars a year out of the general fund and require that the money be spent on transportation. Approximately \$300 million more per year would be spent on transportation, after a five-year phase-in.

Critics say: It will hurt schools and colleges, which depend on general fund dollars, and that it's bad policy for lawmakers to toss a key funding question to voters. Go to www.votenevehicle tax.org to read more from critics.

Supporters say: It will bring needed dollars to roads and transit without raising taxes; it won't hurt schools because it will be phased in and state revenue growth will fill any gaps. Go to www.voteyesmn.org to read more from supporters.

Yes, no, blank. With constitutional amendments, a blank counts as a "no." So if you intend to vote for it, make sure you fill in the bubble.

StarTribune.com MINNEAPOLIS - ST. PAUL, MINNESOTA

Last update: October 22, 2006 -- 4:19 PM

Jon Campbell, Dee Long and Lenny Pippin: Transportation amendment makes sense

Vote would give roads and transit a reliable source of funding, which is a necessary first step in meeting the state's needs.

Jon Campbell, Dee Long and Lenny Pippin

Minnesotans from all walks of life and all corners of the state see the need to improve our transportation system. Safe and efficient movement of people and products is critical to improving everyday quality of life and growing our economy. It's pretty simple -- Minnesotans want to move more quickly and safely.

For nearly 25 years, state policy-makers have wrestled with finding sustained and balanced funding for the state's road and transit needs. Legislators know we are tired of sitting in traffic and driving on deteriorating roads, but it has been difficult to reach a compromise that helps everyone from International Falls to Worthington, Shakopee to Stillwater, and points in between.

On Nov. 7, voters have the opportunity to inject permanent and meaningful money for roads, bridges and transit systems statewide by approving Minnesota's transportation amendment. This amendment is the right and necessary first step to increase the resources already dedicated to highway improvements across the state, and it will guarantee money for public transit programs in greater Minnesota communities as well as the Twin Cities.

The amendment makes sense. It proposes that we dedicate an existing transportation tax -- the money we pay on purchases of new and used motor vehicles -- to transportation projects. The idea is far from new. In fact, 25 years ago the Legislature voted to dedicate this transportation tax for transportation projects, just as the gas tax and vehicle license tabs already are.

But every year since then, some or all of this money has been diverted for nontransportation purposes. Right now, about half of the money goes to other budget items, and there is no guarantee that the current level of transportation funding will be sustained. Overall, \$6 billion has been lost for transportation priorities statewide in the last 25 years.

Minnesota's transportation amendment is no silver bullet, but it is an important and necessary start to closing that gap. The additional money is significant for transportation and yet minimal in terms of overall spending -- about 1 percent of the state budget. And the money will be gradually transferred from the general fund to transportation -- \$60 million each year for five years, reaching \$300 million in 2012.

The annual growth in the state's revenues, plus the five-year phase-in, leaves

plenty of money for other priorities such as education and health care. In fact, next year's state tax revenues already are projected to be \$400 million higher than previous forecasts -- after the transfer for Minnesota's transportation amendment is funded.

Amending the Constitution is not to be taken lightly. That's why passage requires a majority of "yes" votes from everyone who goes to the polls. In other words, a nonvote is counted as a "no" vote. At the same time, it's not unusual to amend the Constitution, and specifically for transportation.

Our Constitution already dedicates the gas tax and license tab fees to highways. This measure would supplement highway funding and produce the first steady source of transit money. It does so in balanced fashion -- 60 percent for highways and 40 percent for transit systems statewide.

Minnesotans are lining up behind this common-sense plan. More than a thousand organizations are among Minnesotans for Better Roads and Transit, the largest and most broad-based organization to advocate passage of a state constitutional amendment. Our support comes from business and labor groups, agricultural and environmental interests, highway and transit advocates, rural and metropolitan local governments, and rank-and-file citizens everywhere.

Constitutional amendments must first be advanced by the Legislature, and the bipartisan support was evident there, too. The amendment was passed by lawmakers in 2005 with endorsement from Democrats and Republicans, rural and metro legislators alike. This solution has been in front of us for 25 years. Let's take the final step.

Jon Campbell is chief executive officer of Wells Fargo Minnesota Region in Minneapolis, and Lenny Pippin is chief executive officer of the Schwan Food Co. in Marshall, Minn. Both are cochairs of Minnesotans for Better Roads and Transit. Dee Long is tax and incentives program director for Fresh Energy.

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