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LEGISLATIVE BULLETIN

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NEW LAWS & SESSION WRAP-UP

2015

A summary of legislation impacting the Minnesota Auto Dealers Association.

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Session Summary

DIVIDED GOVERNMENT PRODUCES MIXED RESULTS

After complete DFL control of state government in the 2013-2014 biennium, voters decided on a more balanced approach in the 2014 elections. While re-electing DFL Governor Mark Dayton, they backed more Republicans in races for the Minnesota House of Representatives, flipping control of the body and giving the GOP a 72-62 majority. This created a political dynamic - DFL governor, DFL Senate and GOP House – not seen since the 1985-1986 sessions when things didn't go so smoothly.

However, the landscape going into the 2015 legislative session was much rosier than in 1985. The state's unemployment rate was dropping and the coffers showed a nearly \$1 billion surplus. Furthermore, neither veteran DFL Majority Leader Tom Bakk (DFL-Cook) nor newly-appointed Speaker Kurt Daudt (R-Crown) wanted a repeat of the 2011 political gridlock that spawned a government shutdown and lots of angry voters in the next election. Both leaders went into the session wanting to prove that divided government can work – and while a government shutdown was averted, the Legislature still went into overtime with a brief Special Session to iron out the budget.

Surprisingly, most of the divisions during the session were between DFL Governor Mark Dayton and Senator Bakk. Things got off to a bad start early in the session when the DFL Senate voted to undo pay raises for state department heads that Dayton had approved. Dayton accused Bakk of “stabbing him in the back,” and Daudt intervened as a mediator between the two. Things were worked out, but the relationship between Bakk and Dayton never fully recovered.

As the session wound down and rank-and-file legislators awaited the terms of an overarching budget framework so they could complete the state's business on time, Daudt and Bakk agreed to a compromise without including Governor Dayton. He lashed out and threatened a veto of the public K-12 education bill, which lacked funding for universal pre-kindergarten, a proposal supported by neither Senate Democrats nor House Republicans.

Despite agreeing to and passing a budget, the Legislature had to revisit its work in a Special Session when Dayton made good on his promise and vetoed the K-12 bill, along with finance bills for jobs and economic development and the environment and agriculture. Ironically, Dayton's attempt to redo the budget with his priorities failed in the Special Session, as legislators continued to rebuff his demands on funding universal pre-kindergarten and other last-minute salvos he made.

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THE BIG PICTURE OUTCOME

The most surprising outcome of the session is that despite having a nearly \$2 billion surplus (the amount increased between the November and February forecasts), legislators left a tidy sum – nearly \$900 million – on the bottom line. This is a byproduct of divided government. The Republican House felt tax increases passed in the previous biennium meant that the state needed to restrain its spending and even return some dollars to taxpayers. Democrats, especially Governor Dayton, saw an opportunity to invest in new programs and state services that had fallen by the wayside. So even though overall spending increased, with school districts as the biggest beneficiary, state budgets were fairly constrained. Health and human services funding was peeled back by \$328 million dollars. Neither the University of Minnesota nor the Minnesota State Colleges and University received the funding increases and tuition relief they sought. No new dollars were invested in transportation infrastructure and no tax relief was provided – another result of divided government. House Republicans were loath to raise the gas tax while the state had such a significant surplus so Senate Democrats refused to entertain any tax relief, forgoing a tax bill altogether.

FOR MADA

Overall, Republican-control of the House made for a more business-friendly Legislature. MADA did not have to worry about onerous new regulations being proposed and had the opportunity to play more offense. As a result, we waded into advancing new issues – such as workforce development, electric vehicle incentives, and vehicle donation programs – that could benefit the industry and the state.

Conversely, the new GOP majority also incited the most support for allowing Sunday liquor sales – and correspondingly, Sunday motor vehicle sales - that MADA has seen in the past decade. With the liquor issue unresolved in 2015 (see page 9), we expect to have to reengage on the issue in 2016.

The following report highlights these and other issues impacting our dealer members. Please use this report as a resource, and if you need additional information or have questions about new laws, please don't hesitate to contact MADA staff.

THANK YOU

MADA's success at the Capitol is dependent on your involvement. Thanks to those members who weighed in to help shape our agenda and took the time to contact their legislators when asked – especially when it came to preserving the Sunday Closing law.

Dealer Operations – NEW LAWS

GAP REGULATIONS – CHAPTER 1, 2015 SPECIAL SESSION

Article 3, Sections 3-9

Effective August 1, 2015

House File 1135 – Representative Tim Sanders (R-Blaine)

Senate File 1051 – Senator Dan Sparks (DFL-Austin)

The Guaranteed Asset Protection Association pursued legislation to regulate Guaranteed Asset Protection (GAP) products sold in Minnesota. The new requirements provide more protections for consumers in exchange for consideration of GAP products as “waivers” and not regulated insurance products.

While the majority of new requirements fall on the GAP providers themselves, dealers do have some responsibilities under the new law, including providing a written disclosure to borrowers in 14-point, bold face type that states: “THE GAP WAIVER IS OPTIONAL. YOU DO NOT HAVE TO PURCHASE THIS PRODUCT IN ORDER TO BUY [OR LEASE] THIS MOTOR VEHICLE. YOU ALSO HAVE A LIMITED RIGHT TO CANCEL.”

Additionally, dealers are required to have insurance backing their GAP waiver obligation. The new law allows this insurance to be arranged by the GAP administrator. Furthermore, the statute specifies:

- GAP waivers must be cancellable by the customer for at least 30 days without any financial obligation.
- It is illegal to sell GAP on a vehicle valued at less than \$5,000.

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Licensing & Vehicle Registration – NEW LAWS

SECOND FILING FEE ON CONDITIONAL REGISTRATIONS – CHAPTER 75

Article 2, Sections 19

Effective July 1, 2015

House File 1612 – Representative Jeff Howe (R-Rockville)

Senate File 1514 – Senator Jim Carlson (DFL-Eagan)

The Minnesota Deputy Registrars Association (MDRA) initiated this legislation to add a second \$10 filing fee when clearing a dealer-initiated conditional registration. Previously, a \$10 fee covered both the filing of the conditional registration with a Deputy Registrar and its removal. Due to the time and paperwork associated with clearing the conditional, the MDRA successfully argued a second filing fee was warranted. The new law applies to all transactions cleared on or after July 1, even if the original conditional was filed prior to July 1.

PROOF OF INSURANCE - CHAPTER 75

Article 2, Sections 27

Effective January 1, 2016

House File 1566 - Representative Joe Hoppe (R-Chaska)

Senate File 1108 – Senator Susan Kent (DFL-Woodbury)

In an effort to encourage drivers to have motor vehicle insurance coverage and to discourage instances of insurance fraud, legislators have decided to reinstitute requirements that vehicle owners provide proof of insurance for the vehicle. Under current law, the owner is only required to “attest” that the vehicle is covered by an insurance policy at the time of registration, and no documentation is required. With passage of this legislation, dealers must collect the following information for vehicles registered after January 1, 2016:

- the insurance company’s name,
- the policy number, and
- the policy expiration date for the subject motor vehicle.

As enacted, there are no requirements on how the data is collected or that it be transferred to the state Driver and Vehicle Services Division.

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REGISTRATION PERIOD FOR SMALL TRAILERS/TOWED RECREATIONAL VEHICLES – CHAPTER 75

Article 2, Sections 14-15

Effective May 23, 2015

**House File 610– Representative Jim Davnie (DFL-Minneapolis)
Senate File 111 – Senator Patricia Torres Ray (DFL-Minneapolis)**

These provisions change the registration period for trailers weighing between 3,000 and 7,200 pounds and towed recreational vehicles. Current law requires that these vehicles be registered annually and taxed, based on gross vehicle weight, at 30 percent of the Minnesota base rate schedule. The new law allows vehicle owners the option to register the vehicle for three years, for which the tax would be assessed at 90 percent of the Minnesota base rate schedule.

The option applies to taxes payable for a registration period beginning on or after January 1, 2016.

MINNESOTA GOLF PLATES PROCUREMENT - CHAPTER 75

Article 2, Sections 17

Effective July 1, 2015

**House File 293 - Representative Tim Sanders (R-Blaine)
Senate File 1387 – Senator David Tomassoni (DFL-Chisholm)**

In 2014, the MN Legislature authorized the issuance of special Minnesota Golf license plates. Besides paying the fees associated with special license plates, the law required plate recipients to contribute a minimum of \$30 annually after January 1, 2017, to the Minnesota Section PGA Foundation account. This year's Omnibus Transportation Bill requires plate recipients to begin making annual payments after July 1, 2015. The revenues collected help cover the Department of Public Safety's costs of production and administration of the plate, with any leftover proceeds benefiting the PGA Foundation.

MOTOR VEHICLE TITLE TRANSFER STUDY - CHAPTER 75

Article 2, Sections 55

Effective May 23, 2015

Committee Amendment by Representative Denny McNamara (R-Hastings)

In 1984, a \$4 motor vehicle title transfer fee was added to the transaction to fund temporarily waste tire cleanup and help eradicate an outbreak of encephalitis from Treehole Mosquitoes that lived in the tires. Since then, the fee has increased by 150%

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and has been used over the years to fund everything from environmental cleanup to debt service on revenue bonds to plugging holes in the state's budget.

Instigated by House Transportation Committee member and Environment Finance Chair Denny McNamara, the omnibus transportation bill includes language requiring the Pollution Control Agency to submit a report to legislators

- identifying the annual amount of revenue collected from the fee in fiscal years 2012 to 2015;
- evaluating the allocation of revenue from the title transfer fee; and
- specifying uses of funds from title transfer fee, including identification of any highway transportation projects for which funds are used.

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Workforce – NEW LAWS

MNSCU COLLEGE OCCUPATIONAL SCHOLARSHIP PROGRAM – CHAPTER 69

Article 1, Section 3 and Article 3, Section 20

Effective July, 1 2016

House File 340 – Representative Lyn Carlson (DFL-Crystal)

Senate File 2 – Senator LeRoy Stumpf (DFL-Plummer)

Going into the session, one of the top priorities for the Senate DFL caucus was workforce development and connecting businesses with workers. Part of their proposal was to provide two-years of free tuition at one of Minnesota’s technical colleges for recent high school graduates. In light of the shortage of experienced auto technicians and collision repair workers our dealers are facing, MADA wholeheartedly supported this effort as the state’s tech schools are an important part of our pipeline to future workers.

After negotiations with the House, who didn’t endorse anything similar, the proposal was scaled back to a pilot program to fund approximately 1,600 students who meet certain qualifications, including:

- is a Minnesota resident who has just graduated or received a GED and applies for the fall term immediately following their graduation/certification;
- has completed a Free Applications for Federal Student Aid and has (parental) adjusted gross income of \$90,000 or less;
- enrolls to study a high-demand occupational field; and
- makes satisfactory academic progress by achieving a cumulative GPA of at least 2.5.

The legislation also requires that MnSCU schools provide mentoring to these students to help them connect with job placement opportunities. A report measuring the success of the program, including employment outcomes, is required and will influence whether this program is continued and/or expanded in future budget cycles.

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CREATION OF DUAL TRAINING GRANT PROGRAM – CHAPTER 69

Article 1, Section 3 and Article 3, Sections 11 & 18

Effective July 1, 2015

House File 551 – Representative Marion O’Neill (R-Maple Lake)

Senate File 5 – Senator Terri Bonoff (DFL-Minnetonka)

The second portion of the Senate DFL workforce package was establishment of a grant program for dual training programs in industries where there is a demonstrated need. As introduced, the grants would be made available to any sector for which the Department of Labor and Industry (DOLI) establishes competency standards. However, an amendment was offered to limit the scope to the four fields in Minnesota’s 2014 PIPELINE project: advanced manufacturing, health care, information technology, and agriculture. MADA worked to add the “transportation sector” to the mix, but was rebuffed by DOLI, who had yet to complete its charge in developing standards for the aforementioned fields.

The bill as enacted provides \$3 million for employee training to businesses or employer organizations that are working with a training institution to provide the competency standard training.

Since session ended, MADA has reached out to DOLI to discuss our industry’s needs and hopes to be part of the grant program if it is extended in future legislative sessions.

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Dealer Operations – Bills that Did NOT Pass

ALLOWING SUNDAY MOTOR VEHICLE SALES

**House File 347– Representative Tina Liebling (DFL-Rochester)
Floor Amendment to SF 1238 by Representative Ron Erhardt (DFL-Edina)**

A group of consumers and liquor retailers have aggressively been pursuing a campaign to undo the ban on Sunday liquors for the last few years – and their efforts are beginning to pay off. While not adopted, votes to allow Sunday liquor sales garnered the most legislative support they ever have received.

Unfortunately for Minnesota car, truck & RV dealers, legislators and some stakeholders have been working to link the prohibition on Sunday vehicle sales to the liquor effort. This manifested itself in two ways: a stand-alone bill by Representative Tina Liebling to get rid of both of these archaic blue laws, and a floor amendment by Representative Ron Erhardt to a Sunday liquor sales amendment, in the hopes that the auto sales language would cause Sunday liquor to fail as well.

Between an aggressive grassroots campaign by MADA members and no consumer outcry for Sunday motor vehicle sales, the Liebling bill never received a hearing and the Erhardt amendment failed on a procedural motion 113-17. However, with the Sunday liquor issue still unresolved (that amendment failed 75-57), MADA staff anticipate isolated attacks on the Sunday Closing law to return in 2016.

CURBING INSURER MANDATES ON BODY AND REPAIR SHOPS

**House File 458– Representative Bob Loonan (R-Shakopee)
Senate File 135– Senator Ron Latz (DFL-St. Louis Park)**

State Farm Insurance’s 2014 rollout of PartsTrader, an online parts bidding system, has frustrated many part and repair centers. How to reign in and regulate such a system in which repair shops “voluntarily” agree to participate has proven even more difficult.

The Alliance of Automotive Service Providers, Minnesota (AASP-MN) promoted legislation that would have prohibited insurers from recommending certain repair shops and “requiring” those repair shops to use specific products, vendors, and distributors when carrying out repairs for the claimant. While the bill did garner a hearing in the Senate Commerce Committee, it did not meet committee deadlines when the House failed to act on the standalone bill.

The Senate kept the proposal alive by slipping a modified version that limits an insurance company’s ability to dictate the estimating program or software repair shops use into the

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Senate Omnibus Jobs and Economic Development Bill. The amendment was added without the knowledge of the insurance industry, who later unsuccessfully tried to strip it out of the bill.

Since the Senate Omnibus Jobs and Economic Development Bill was the last bill negotiated during the Regular Session, legislators only had time to agree to an overarching budget and high-profile policy issues, leaving the AASP-MN provision by the wayside.

AASP-MN has promised to revisit the issue in 2016. Meanwhile, MADA continues to work with its Collision & Service Council on approaches it believes will have more teeth, as the AASP-MN language would be tough to enforce since the requests placed on body shops by insurers are agreed to “voluntarily” through contracts.

Licensing and Vehicle Registration – Bills that Did NOT Pass

SINGLE LICENSE PLATE OPTION

Floor Amendment by Representative Joe Atkins (DFL-Inver Grove Heights)

When the House took up House File 4, its transportation funding package, Representative Joe Atkins (DFL-Inver Grove Heights) successfully added language to the bill allowing only one license plate to be displayed on a vehicle if it did not come with a factory-installed front bracket mount. His amendment received little opposition after a broader single license plate amendment offered by Representative Phyllis Kahn (DFL-Minneapolis) failed handily due to vociferous opposition by legislators sympathetic to law enforcement.

While supported by both House and Senate leadership, the provision failed to become enacted when discussions on a major transportation package fell apart and a small, “lights-on” transportation budget bill with non-controversial policy was agreed to instead.

Workforce – Bills that Did NOT Pass

GETTING TO WORK PROGRAM

House File 1425 – Representative Brian Daniels (R-Faribault)

Senate File 641 – Senator Tom Saxhaug (DFL-Grand Rapids)

The Minnesota Asset Building Coalition, a coalition of social service providers, has data showing that Minnesotans trying to stay out of poverty and remain in the workforce most need a reliable automobile. They came forward with a proposal, known as the “Getting to Work” bill, to appropriate \$4.5 million to the Department of Employment and Economic Development (DEED) to distribute through a competitive grant process to fifteen nonprofit organizations that provide vehicles, vehicle repair, or vehicle loans to eligible workers and job seekers. Grantees, and ultimately their clients, were required to meet certain qualifications to obtain funding.

MADA supported this initiative, as it reinforces that automobiles are a critical component for individuals seeking to better their lives and maintain employment.

Despite having broad legislative support demonstrated by a lengthy list of Democrat and Republican co-authors in each body, requests for new programmatic funding at DEED well exceeded the dollars available, and this innovative program missed the cut.

Transportation Funding – Bills that Did NOT Pass

OMNIBUS TRANSPORTATION FUNDING BILL

House File 4 – Representative Tim Kelly (R-Red Wing)

Senate File 87 – Senator Scott Dibble (DFL-Minneapolis)

The DFL Senate put forward a major transportation funding package that raised \$12 billion in new revenue from significant tax and fee increases. Beyond institution of a new wholesale tax on motor fuel and an increase in the metro area sales tax, the bill raised the registration tax from 1.25% to 1.5% and authorized municipalities to institute street improvement fees (see more below.) An amended version of the bill approved by the Senate Transportation Committee eliminated the street improvement fee provision, but created a fund with the revenues coming from a new \$10 surcharge on motor vehicle transfers.

MADA opposed the registration tax and motor vehicle transfer surcharge, but ultimately the bill failed due to the House Republican's staunch opposition to any tax and fee increases for transportation. The conference committee dissolved at the end of the session, with a promise from Chairs Dibble and Kelly to continue to work toward a middle ground in 2016.

MUNICIPAL STREET IMPROVEMENT FEES

House File 1020 – Representative Ron Erhardt (DFL-Edina)

Senate File 778 – Senator Jim Carlson (DFL-Eagan)

Senate File 87, Article 7, Section 6 – Senator Scott Dibble (DFL-Minneapolis)

For over a decade, Minnesota cities have been lobbying to give them the authority to levy street improvement fees on property owners to raise money for transportation projects. And for over a decade, MADA has been leading a coalition of over 20 business and non-profit organizations in opposition to this idea. Essentially, the proposal would allow cities to do end-runs around existing property tax and special assessment laws designed to protect taxpayers.

This session proved no different, as the municipal organizations trotted out an updated version of the same bad idea, which legislators again rejected on a bipartisan basis. A dismal hearing for the proponents in the Senate State and Local Government Committee, where the bill was tabled, even caused long-time champion Scott Dibble from keeping the proposal alive in his Omnibus Transportation Funding Bill.

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Hopefully, cities will drop their push next session as the 2015 Legislature created a new “Small Cities Assistance Fund” and sanctioned a study to examine ways to reduce the burden on local governments when they are required to cost share in state road construction projects.

SURCHARGE ON FUEL EFFICIENT VEHICLES

**House File 324 – Representative Ron Erhardt (DFL-Edina)
Committee Amendment by Senator Mary Kiffmeyer (R-Big Lake)**

With worries about the long-term sustainability of fuel tax revenues to fund our state’s highways, Representative Ron Erhardt and Senator Mary Kiffmeyer brought forward proposals to put a surcharge on fuel efficient vehicles. Erhardt’s bill created a sliding fee based on a vehicle’s fuel economy, whereas Kiffmeyer limited the new surcharge to electric vehicles only.

MADA, as a member of the Drive Electric Minnesota coalition, led the charge against these efforts. A surcharge on fuel efficient vehicles runs counter to federal regulations requiring vehicles to meet new fuel economy standards. In addition, electric vehicles are still an emerging market and adding a surcharge will dissuade consumers from buying what is already a more expensive vehicle versus a comparable conventional one.

MADA’s arguments and lobbying convinced both Erhardt and Kiffmeyer to withdraw their proposals before being voted down by their colleagues.

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Tax Policy – Bills that Did NOT Pass

OMNIBUS TAX BILL

House File 848 – Representative Greg Davids (R-Preston)

Senate File 826 – Senator Rod Skoe (DFL-Clearbrook)

As referenced earlier in this report, passage of a tax bill fell by the wayside when negotiations on a transportation funding package ended in a stalemate. Going into the session, House Republicans were pushing for \$2 billion in tax cuts, the bulk of which came from a phase out of the commercial/industrial property tax paid by businesses. While the Senate also included some tax cuts, theirs were much more modest in comparison (~\$460 million.)

The Tax Conference Committee is expected to be reconvened in 2016, and there are a few well-positioned items that could benefit dealers and the greater business community, including:

- a reduction in business property taxes;
- removal of the automatic inflator on the statewide business property tax ;
- conforming the estate tax threshold to the federal level; and
- removal of business advisers as a factor for determining residency.

While there is bipartisan support for reducing the tax burden on pass-through companies that pay their business income taxes through the individual income tax, a tax reduction for pass-through income unfortunately was not included in the omnibus tax bills as policymakers decided to focus on reducing the business property tax instead.

SALES TAX EXEMPTION ON PURCHASE OF USED GOODS

House File 797 – Representative Mike Sundin (DFL-Esko)

Senate File 494 – Senator Dan Hall (R-Burnsville)

A strange coalition of legislators emerged to support exempting the sale of used goods, including used motor vehicles, from the state sales tax. Democrats signed onto the bill to support low-income Minnesotans who purchase goods at thrift stores. Senator Hall, the chief Senate author and Republican, liked the idea because he considers charging sales tax on used goods “double taxation.”

While hearings were granted in both bodies to indulge the authors, no further action was taken on the bills since they create an over \$500 million dollar hole in the state’s transportation budget due to the loss of motor vehicle sales tax revenues.

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Miscellaneous – Bills that Did NOT Pass

TAX REBATE ON THE PURCHASE OF ELECTRIC VEHICLES

House File 2081 – Representative Pat Garofalo (R-Farmington)

Senate File 1948 – Senator John Marty (DFL-Roseville)

House File 843, Article 1, Section 9 & Article 11, Section 8– Representative Pat Garofalo

MADA worked with Drive Electric Minnesota (DEMN), a group of stakeholders including government, business, consumers, and environmentalists, to encourage passage of this legislation to provide state rebates of \$3,000 to consumers who purchase plug-in electric vehicles. The bill gave us the opportunity to demonstrate our dealers’ commitment to the environment as well as encourage a voluntary, versus punitive, approach to curbing greenhouse gas emissions.

The concept received solid support in the Senate and House, but ran into hurdles over the source of the funding. Jobs Chair Pat Garofalo wanted to capture revenues from the renewable development fund (paid for by Xcel Energy) to pay for the program. Meanwhile, his counterpart, Senator David Tomassoni (DFL-Chisholm), preferred keeping the renewable development fund intact. This schism, along with overall disagreements between the two chairs about the size and scope of the Omnibus Jobs and Economic Development Bill, caused electric vehicle rebates to be omitted from the final package.

Next year’s budget surplus, along with the mandated study about motor vehicle transfer fees (see page 7), could give us the opportunity to revisit this issue in 2016.

CURBING METROPOLITAN COUNCIL AUTHORITY

House File 2050 – Representative Tony Albright (R-Prior Lake)

Senate File 1975– Senator Eric Pratt (R-Prior Lake)

House File 2236 – Representative Tony Albright

In 2014, the Metropolitan Council updated its *Transportation Policy Plan*, which sets policies based on goals and objectives for the regional transportation system. Included in the plan are recommendations discouraging local governments from allowing auto dealers within one block of transit stations. MADA members in Bloomington already experienced a big rezoning battle that was precipitated by this “guidance.”

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MADA worked with the new Republican majority in the House, as well as some suburban Democrats who are concerned about the Metropolitan Council's overreach, to craft and advance this legislation.

Instead of requiring local governments to amend their comprehensive plans and ordinances to align with the Met Council, the bill made adherence voluntary and created a process to have a more back-and-forth dialogue between the Council and cities within its jurisdiction.

The bill is well-positioned in the House for passage in 2016. The DFL Senate, which is more sympathetic to the Council since it reports to Governor Dayton, will provide a more formidable challenge in advancing this proposal.

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