

## **Governor's Supplemental Budget Concerns**

This document is a summary of concerns from the Governor's staff regarding the omnibus budget bills passed by the House and Senate. It does not include comments about other bills that are not within the omnibus budget bills. The information below represents key concerns. Other concerns may be addressed during the course of negotiations and discussions. Agencies may also provide specific lists of concerns in separate letters to the conference committees.

### **Statewide Concerns**

#### **Excessive Use of Reserves**

The State must maintain sufficient reserves to deal with economic uncertainty over the remaining 14 months of the biennium and avoid unacceptable alternatives if revenues decline further. Also, the State's cash position will worsen if we spend down state reserves and other balances during the next several fiscal years. The Governor used some General Fund reserves (\$250 million) but the House and Senate go much further (\$600 million and \$450 million respectively) and both use the Cash Flow Account, not just the Budget Reserve.

#### **Lack of Progress in the Next Biennium**

We face a substantial fiscal challenge in the next biennium and need to resolve some of that problem this year. The Governor's plan made some progress and reduced the gap projected in FY 2010-11 to \$693 million. This problem is exacerbated by House and Senate positions that also create structural deficits in other, non-general funds.

### **Health and Human Services Concerns**

#### **Structural Deficit in the Health Care Access Fund**

Both the House and Senate avert significantly from the Governor's proposal to use a portion of the HCAF for broader budget purposes and spend the fund to unsustainable levels in future years. By the end of the next biennium, both plans create an annual structural deficit of over \$130 million, leaving the solvency of the fund in question for FY 2012 and beyond.

#### **Fictional Savings**

The Health and Human Services portion of the Senate bill tracks reductions of \$56 million in fiscal year 2009 and \$81 million in FY 2010-11 for four proposals that either cannot be implemented as drafted or do not produce any savings. These proposals were never part of an introduced bill and never had a hearing. Official fiscal notes were never requested, produced by DHS, nor reviewed by DOF. The four proposals of concern are:

- Limit MN Public Health Care Program Managed Care Administration to 7%
- Prior Authorize Certain Services and Technologies
- Implement Best Practices for Third Party Collections
- Refund Health Plan Reserves

#### **Reduction to Minnesota Sex Offender Program (MSOP)**

Further reductions at this time would create stress to this important program and may impact staff and patient safety.

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### **Minnesota Family Investment Program (MFIP) Spending Increases**

There are concerns about the level of spending in the MFIP/DWP program, especially in the Senate bill which had ongoing spending increases for work supports of almost \$8.8M per year at a time when other programs are being reduced or capped. Both bodies include a repeal of the family cap. The Senate position restricts unpaid work, which restricts county flexibility and makes it more difficult to meet federal work participation rate target.

### **MDH Administrative Reductions**

The House position reduces the Department of Health's general fund administrative budget by 6%, which is 50% more than the Governor's proposed reduction and one of the highest percentage reductions to any state agency. Even more problematic are requirements in the bill that agency reductions must not result in a loss of federal funds, and that an emphasis must be made on cutting administrative and overhead expenses such as travel, compensation, and supplies.

### **Elimination of Specific Deputy and Assistant Commissioners at MDH**

The House bill abolishes the most recently hired deputy and assistant commissioners within the Department of Health. This reduction is arbitrary based on hiring chronology, and does not take into account the needs of the organization or the performance and contributions of these two specific individuals.

## **Tax Concerns**

### **Corporate Income Tax Provisions**

The House fully repeals Foreign Operating Corporations (FOCs) and the Foreign Royalty Exclusion and changes the tax treatment of corporations operating in designated tax havens. The Senate fails to increase the Foreign Royalty Exclusion from 80% to 90%, as recommended by the Governor and includes problematic language regarding economic substance. These positions make Minnesota less attractive to corporations that do business internationally.

### **Lack of an Offset for FOC Provisions**

Neither the House nor Senate reduces taxes to offset the revenue generated by adopting changes to the tax treatment of Foreign Operating Corporations (FOCs). The Governor's budget proposed a reduction in the statewide sales tax rate, an income tax subtraction for military pay and pensions, and a SEED venture tax credit.

### **Automatic Local Aid Increases**

The Senate significantly increases funding for LGA, County Program Aid and Township Aid and then indexes them to inflation, which effectively puts them ahead of other critical funding priorities when future budgets are developed. This proposal makes the state's budget problems worse and puts tens of millions of dollars on autopilot.

### **Job Opportunity Building Zones (JOBZ)**

At a time when our economy is slowing, the Senate halts expansion of the JOBZ program as of May 1, 2008. This initiative has created or retained more than 5,400 good-paying jobs throughout Greater Minnesota.

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## **June Accelerated Payment**

The Senate proposes increasing June accelerated payments to 90%, which is 5% more than the Governor's recommendation.

## **Property Tax Increases**

The Senate modifies the state general property tax levy resulting in a higher commercial/industrial tax burden. It also increases property taxes on utility companies and airports. Both provisions make Minnesota less attractive to corporations that are located here. The structure of the Mall of America proposal remains problematic.

## **Local Tax Increase Provisions**

The Senate includes numerous provisions that provide local governments with authority to increase sales and use taxes as well as mortgage and deed taxes. The Governor is concerned about placing additional burden on taxpayers.

## **K-12 Education Concerns**

*Concerns are based on House-Senate compromise position announced on 4/15/08.*

### **Creates a Funding Cliff for School Districts**

The \$51/per pupil payment and the \$51/per pupil transfer authority are both one-time in FY 2009. The elimination of the Permanent School Fund subtraction is implemented in FY 2010 and provides \$36 per pupil, but there will still be a cliff effect for school districts, especially if they use the full transfer authority. This problem is compounded for charter schools, as it is unclear whether it would be legal to pay Permanent School Fund dollars to charter schools. The Constitution states the money should be apportioned to districts.

### **Significantly Reduces Funding for Past Governor's Initiatives**

These reductions will jeopardize the Governor's efforts to increase rigor and quality in the K-12 educational system.

- Q-Comp funding is capped at the current level for the next two years, which does not allow for any expansion to new districts and sites. More than \$20 million in Q-Comp funding is redirected in FY 2009 to provide schools with one-time payments that are not tied to performance or strategic subject areas. The House and Senate also roll Q-Comp out of General Education, which is opposed by the Governor.
- Statewide testing is permanently reduced by \$2.25 million starting in FY 2009. This reduction will make it difficult to fulfill state and federal testing obligations.
- CLEP is reduced \$1.95 million in FY 2008-09 and future funding is discontinued. This program provides students the opportunity to take exams for college credit.
- Educational Planning and Assessment Systems (EPAS) funding is reduced \$658,000 in FY 2008-09 and future funding is discontinued. This program provides students in 8<sup>th</sup> and 10<sup>th</sup> grade the opportunity to plan and prepare for high school and post-secondary success.

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### **Provides Little or No Funding for Governor's Current Initiatives**

The Governor's priorities for improving teacher quality are not funded, including Minnesota Teach, the U Teach Program and Math and Science Teacher Institutes.

### **Funds Various Initiatives Not Recommended by the Governor**

## **Higher Education Concerns**

### **General System Reductions**

The Governor's budget recommended general reductions to both systems of approximately \$27 million annually. This was less than a 4% reduction in their basic appropriation which was less than most state agencies were asked to absorb. Both the House and the Senate recommend significantly smaller reductions (\$5 million to \$8 million annually) for both systems.

### **ACHIEVE**

Both the House and the Senate cut funds from ACHIEVE, a Governor's initiative, before it has had a chance demonstrate its potential. While the House leaves \$3 million in FY 2010 and FY 2011, the Senate totally eliminates the program.

### **Permanent Spending Authority – Office of Higher Education (OHE)**

Both bodies provide OHE with permanent spending authority that will ensure that current surpluses are automatically spent. This leaves only the risk of increased costs or problems should estimates of available balances be in error.

### **Power of U**

The House transfers \$3.8 million from the state grant program to MnSCU for the Power of U. This action takes money that is available to all students and campuses and directs it exclusively to specific students and campuses.

### **MnSCU Board of Trustees**

The House includes a provision that removes the Governor's appointing authority for four of the 15 trustees on the Minnesota State Colleges and Universities (MnSCU) governing board. These positions would be appointed by labor unions.

## **State Government Concerns**

### **General Reductions**

The House and Senate make general reductions on top of the specific operating cuts recommended by the Governor. These general reductions make budget planning more difficult and limit the staffing and tools agencies need to manage their workload.

- Professional/Technical Contracts – P/T contracts are an important tool for effective delivery of state services like educational testing and correctional facility medical care. This provision is in effect another \$5 million unspecified reduction in agency operations.
- Managerial Position Reductions - These positions provide the strategic direction necessary to carry out critical functions and implement operating reductions with

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minimal disruption to state services. Booking \$3.7 million per year in savings from the elimination of Deputy/Assistant Commissioner positions adds to the reductions already carried in the House and Senate positions and is an unacceptable intrusion on management of the executive branch.

### **Tax Compliance Initiative**

The Senate includes a tax compliance initiative in its State Government article that books a 4 to 1 return on investment (ROI) ratio. This exceeds the Department of Revenue's feasible ROI calculation of 3 to 1.

### **Compensation Increase Provisions**

These provisions will require that compensation rates be set without consideration of market conditions and will increase compensation budgets, making it more difficult for agencies to absorb operating cuts.

### **Special Revenue Transfers**

- OET Info/Telecomm Account Transfer – Transferring money out of this account will jeopardize innovative statewide projects to improve operational technologies. Rather than combining their efforts through this account, agencies would be left to make separate, duplicative, and often more costly investments—if they can afford them at all.
- Admin Facilities Repair and Renovation Account Transfer – This transfer will limit Admin's ability to maintain the Capitol complex. The Legislature has previously denied requests for asset preservation money because funds were available for that purpose in this account.

### **Convention Letter of Credit**

As state and local partners pursued a national convention, the Governor, legislative and local leaders committed to make best efforts to secure a letter of credit for the event. If used, convention organizers should be required to repay any state funds within the current biennium.

### **E-licensing Surcharge**

This surcharge generates \$3.3 million in annual revenue that was not recommended by the Governor. Diverting surcharge revenue to the general fund in FY 2009 is unfair to the license holders that pay the surcharge but receive no benefit. In addition, the proposed surcharge only raises enough funding to migrate about half the licenses to the new system. The way the surcharge language is written is also concerning since it applies a blanket increase without adjusting each of the license fees in statute. This will create confusion on the part of licensees and make these programs more difficult to administer.

### **Unpaid leave to care for "others"**

Specific employee leave benefits should be the subject of collective bargaining. Lack of definition for terms like "care" and "immediate household" would make this provision difficult to implement. A fiscal note was not requested or prepared on this language. Although the leave is unpaid, there could be fiscal impact from productivity loss and other factors.

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### **Department of Administration Reduction**

In addition to the 4% reduction recommended by the Governor, the Senate eliminates funding for the Office of Strategic Planning. This brings their total operating cut to 6.9%, which is the highest operating reduction proposed for any state agency.

### **Public Safety Concerns**

#### **Operating Cuts for Public Safety and Corrections**

Unlike the Governor, the Senate bill contains internal operating reductions for DPS of up to \$2.2 million and for DOC of up to \$6 million. DOC is already projecting a deficit for FY 2009. These general reductions are too deep and will compromise public safety.

### **Economic Development Concerns**

#### **SEED**

Neither House nor Senate adequately funds the Governor's SEED initiative targeted to economic development in out-state communities: The Governor's proposal was for \$11.5 million. The House funds only \$2.4 million while the Senate does not provide any funding.

#### **Potential Business Cost Increases**

Both bodies add new spending obligations or make one-time transfers that will likely require assessment, fee or license cost increases. The House adds a number of new Unemployment Compensation spending and transfers \$14 million from the Worker's Comp Special Fund. In the Senate \$25 million is transferred from the Worker's Comp Assigned Risk plan, \$4 million from the Department of Labor and Industry Construction Code fund.

#### **Minnesota Investment Fund**

Both bodies transfer money out of the MIF program, one of the state's most valuable economic development tools, jeopardizing 18 projects currently in the pipeline with 1,453 potential jobs. The House cancels \$3 million while the Senate uses \$6.7 million, effectively shutting down the program.

#### **River Centre Debt Forgiveness**

The Senate has a provision that forgives up to \$35 million in debt obligations owed to the State of Minnesota. This provision reduces future state revenues and sets a bad precedent.

#### **Miscellaneous**

- House: The Governor had recommended a \$2 million reduction in the Insurance Fraud Unit, but the House takes an additional \$1.5 million which will hamper the Commerce Department's ability to investigate fraud. The House also cuts \$270,000 from Market Assurance for the Do Not Call program, but still keeps the legal responsibilities for this activity. This will require reduction in other fraud activities.
- House: The House captures \$1.35 million from the Real Estate Education, Research and Recovery Fund, which may not leave sufficient resources for consumer complaints.
- Senate: Increases Film Board appropriation by \$2.15 million (one-time)

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- House: Eliminates \$12 million from the mining rebate program
- House: Direct \$1 million from MIF to a specific Iron Range project
- Senate: removes DEED Commissioner from MnSCU Board *NOT REALLY IN BILL*

## **Veterans and Military Concerns**

### **GI Bill**

Both bodies use the one time surplus in the GI Bill for other purposes. But more importantly, each reduces the ongoing base. The House reduces the ongoing base to \$2.3 million annually while the Senate reduces it to \$1 million annually.

### **Cuts to Veterans Home**

The House cuts Veterans Home base funding \$1 million in FY 2009 and \$1.3 million each year thereafter despite a fiscal note on the MDVA/VHB merger which estimated no savings from the merger.

### **Inadequate Funding**

While in some cases the legislative bodies have provided more funding for some Veterans programs, in other cases they have inadequately funded a number of Governor's Veterans initiatives including:

- Neither body funds expansion of campus veteran's assistance offices nor additional CVSO training coordinators, and neither fully funds the Governor's Veteran's Business Assistance program or the spouse use of tuition program.
- The Senate does not fund the Governor's CVSO grant increase. The Senate also provides less money or only one-time funding for a number of Governor's initiatives including State Soldier assistance program, State navigators, LinkVet linkage line, veterans Claims office outreach, training and agency marketing activities, and state navigators at Military Affairs.
- The House does not fund the Governor's TBI/PTSD outreach initiative, or the though it does provide \$50,000 one-time to design a TBI treatment program. The House also provides no funding for the spouse use of tuition program.

## **Agriculture Concerns**

### **Operating Costs**

The House reduces Agriculture's funding for general fund operating costs by \$200,000 more each year than Governor and the Senate reduces funding for general fund operating costs by \$550,000 more each year than Governor. The Senate approach would lead to staff and programming reductions for some of MDA's Greater Minnesota efforts.

## **Energy Concerns**

### **Funding Provided Before Policy Enacted**

The House appropriates \$134,000 in FY 2009 and \$114,000 annually from the environmental fund for adoption of the California Clean Cars Emissions Standard. The policy requiring the

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adoption of the standard is moving separately in a Representative Hortman bill. It doesn't make sense to include the funding before the policy becomes law. Alternatively, funding should be made contingent to bill passage.

### **E85 Infrastructure**

The Senate cuts \$1.5 million in funding for E85 infrastructure/pump grants. Last year, the Governor recommended \$12 million in funding for this program. The legislature appropriated \$3 million (\$1.5 million each year) and now the Senate proposal eliminates the second year.

## **Transportation Concerns**

### **Motor Vehicle Transfer Fee**

The Senate increases the Motor Vehicle Transfer fee from \$10 to \$20, raising \$10.2 million per year. The Governor opposes this additional burden being placed on Minnesota's driving public.