Minnesota Department of Agriculture

April 4, 2017

The Honorable Rod Hamilton
443 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
Saint Paul, Minnesota 55155

Dear Chair Hamilton:

I want to thank you and your colleagues for putting together an agriculture budget that includes several of the Department's funding requests. The Department truly appreciates your willingness to work with our agency and others to develop your budget and your commitment to the committee process. The Department does have some concerns with this bill, and we look forward to continuing the conversation with you and your colleagues.

Governor's Budget Requests
Earlier this year Governor Dayton outlined his budget request for the Minnesota Department of Agriculture. Governor Dayton invested $8.567 million in general funds and $2.420 million in dedicated funds to respond to the needs of Minnesota's agriculture industry.

The Governor's agriculture funding priorities included enhancing the ability to respond to emerging issues facing agriculture, such as increased plant pathogen and pest risks, eradication of noxious weeds, and pollinator decline. The Governor also included funding for the agency to modernize the interface of our programs through IT infrastructure investments. Additionally, the Governor invested in new market opportunities for Minnesota farmers.

The Governor's agriculture funding priorities include:

• $2.065 million in FY18-19 for operating adjustments at the Department to maintain current levels of service.

• $1.5 million for continuous improvement and IT infrastructure to improve internal processes related to customer service.

• $1 million to expand capabilities to detect, identify, contain and manage high priority plant pathogens and pests.

• $600,000 to provide staff and programmatic funding to the Department's Noxious Weeds Program.

• $2 million for research on cropping systems that provide continuous cover and new market opportunities for Minnesota Farmers.

• $400,000 to maintain the Industrial Hemp Pilot Program.

• $1 million in general funds and $500,000 in dedicated funds to establish a Pollinator Protection Account.

• $1.7 million in dedicated funds to provide fiscal sustainability of the Waste Pesticide Collection program.

• $220,000 in dedicated funds to establish a dedicated account to support administration of Certificates of Free Sale.

Thank you for your inclusion of some of the agency requests in the House agriculture budget proposal.

Plant Pathogen and Pest Capacity

Your committee's investment of $500,000 in the plant pathogens and pests proposal would greatly improve the Department's ability to identify, contain and manage high priority plant pathogens in Minnesota, like flag smut of wheat, blackleg of potatoes, or *Xanthomonas* bacteria that could impact several Minnesota crops.

Industrial Hemp

Your committee's investment of $250,000 in the industrial hemp pilot program will allow the Department to continue serving those piloting industrial hemp as a crop in Minnesota. The Industrial Hemp Pilot Program has received 42 applications with a proposed 2,155 acres in total hemp planting for the 2017 growing season. This increase in participation shows the interest in developing the industrial hemp industry in Minnesota. This funding will ensure that the requirements of the Drug Enforcement Agency (DEA) permit are met.

Food Certificate Fee Account

The inclusion of the proposed adjustments of the food certificate fee account will ensure that the Department has the capacity to issue these certificates to companies that wish to trade food and agricultural products internationally.

Tractor Roll-Over Protection System Grants

Investment in this program last session showed the need for the availability of this type of farm safety equipment. The proposed investment in this bill matched with private investments will allow us to address the 100 farmers on the waitlist, as well as continue to advertise the availability of this program.

Noxious Weeds and Invasive Plant Species Assistance Grants

The Department was pleased to see investment in the Noxious Weed Assistance Account, which has been unfunded since its inception. More funding is certainly warranted at the local level. However, the agency is disappointed that programmatic funding included in the Governor's proposal was not included in this bill. As we have heard in many Committee hearings, Palmer amaranth is a big concern for Minnesota agriculture. New noxious weed threats like Palmer amaranth are difficult to manage absent statewide resources and coordinated planning. Funding for local governments is important, but so is funding for the staff who will support their work at the state level.

The Minnesota Noxious Weed Advisory Committee, which consists of representatives from state agencies, local units of government, private industry and the agricultural community has been supportive of increased funding to the Department's Noxious Weed program for the past seven years.

In order to administer the proposed $600,000 in grants, the agency will need administrative and staff resources.

Pollinator Habitat Account

The inclusion of an account to promote research for pollinator habitat protection is an important investment that the Department supports. However, habitat is not the only factor causing pollinator decline. We know that pollinators are impacted by disease, environmental factors, proper nutrition, and exposure to chemicals like neonicotinoids. The Department's proposal to establish a Pollinator Protection Account would invest in activities to reduce potential impacts from pesticides to pollinators. These activities would include research to evaluate economic thresholds, education campaigns on pesticide use, and development of stewardship materials.

Farm Advocates

The Farm Advocates program has been a critical program that provides one-on-one assistance to farmers who face financial crises. The current nine contracts held with Farm Advocates across the state are at hourly rates far below the level of expertise of these individuals, and rarely can cover their actual hours. The low commodity prices Minnesota's farmers are experiencing has led to an increase in financial challenges. The additional investment to this program will be very helpful to ensure that Minnesota farmers are accessing the assistance they need.

The Department does have some concerns about the proposed budget bill.

Department of Agriculture Operating Costs
The Department is disappointed an operating costs adjustment for our agency was not included in the House bill. This will reduce our ability to be successful at enforcing the State's laws and providing service to Minnesotans.

Agriculture Growth, Research and Innovation (AGRI) Program
The Department has significant concerns with the changes made to the AGRI Fund. This program has created over 4,000 jobs in Minnesota and has leveraged over $200 million in private investment, which has helped to diversify and strengthen Minnesota's agricultural economy. At a time when the State has a $1.65 billion surplus, it is unfortunate that important initiatives funded in this bill had to be repurposed from existing funds.

The proposed increase in administrative funding from 4.5% to 6.5% is something that was included in the Senate bill and is something we would like you to consider. This would assist our staff, who are already at capacity, in managing the large and growing grant portfolios of this program. A common workload for state agency grant-makers is 100 grants per FTE per year. The agency's AGRI grants staff process nearly 300 grants annually and the proposed 2% increase in administrative funding would ensure these dedicated employees continue to serve the public at a high level.

In addition, the Department has concerns about the earmarking of AGRI dollars. Flexibility within this program allows the Department to be responsive to the ever changing needs of Minnesota's agricultural producers. While the initiatives you propose funding within AGRI are important, these earmarks tie our hands and limit funds for other grant categories within AGRI.

The Department works closely with a number of organizations and constituents to help us determine where to invest AGRI resources. This ensures that input from members of the public and the agricultural industry are included in decision-making within this fund.

Ag Emergency Account

The Department is concerned about repurposing funds form the Ag Emergency Account. As we all know, the Highly Pathogenic Avian Influenza outbreak in 2015 presented the Minnesota poultry industry with a $650 million economic impact. One of the reasons Minnesota was so successful in responding to this outbreak is because a Secure Supply Plan was completed for the egg industry. For other agricultural sectors, these plans have not been completed. The Department wants to ensure that this account maintains the ability to immediately respond to emergency, as well as to coordinate preparedness activities across agricultural sectors.

Minnesota Department of Agriculture

As you know, Mr. Chairman, agriculture is a cornerstone of Minnesota's economy. I know that you are working to keep the industry strong and competitive, and to help our agency ensure Minnesotans the integrity of our food supply, the health of our environment, and the strength of our agricultural economy. Thank you for your consideration of our budget requests and I look forward to our continued work together on this bill.

Sincerely,

David J. Fredericksen

David J. Frederickson
Commissioner

CC:

Governor Mark Dayton

Speaker Kurt Daudt

Representative Jeanne Poppe

March 23, 2017

The Honorable Torrey Westrom
Minnesota Senate Building, Room 3201
95 University Avenue West
Saint Paul, Minnesota 55155

Dear Chair Westrom:

I want to thank you and your colleagues for putting together the proposed agriculture budget presented as a delete all to SF780. Our agency appreciates the commitment of you and the members of the Senate Agriculture, Rural Development and Housing Committee to the budget process. The bill does give the Department concerns, and as it moves to the Senate Finance Committee I would like to highlight some of these concerns.

Governor's Budget Requests

Earlier this year Governor Dayton outlined his budget request for the Minnesota Department of Agriculture. Governor Dayton invested $8.567 million in general funds and $2.420 million in dedicated funds to respond to the needs of Minnesota's agriculture industry. The Department is disappointed that Senate proposal invests no additional funds in the Department.

The Governor's agriculture funding priorities included enhancing the ability to respond to emerging issues facing agriculture, such as increased plant pathogen and pest risks, eradication of noxious weeds, and pollinator decline. The Governor also included funding for the agency to modernize the interface of our programs through IT infrastructure investments. Additionally, the Governor invested in new market opportunities for Minnesota farmers.

The Governor's agriculture funding priorities include:

- $2.065 million in FY18-19 for operating adjustments at the Department to maintain current levels of service.

- $1.5 million for continuous improvement and IT infrastructure to improve internal processes related to customer service.

- $1 million to expand capabilities to detect, identify, contain and manage high priority plant pathogens and pests.

- $600,000 to provide staff and programmatic funding to the Department's Noxious Weeds Program.

- $2 million for research on cropping systems that provide continuous cover and new market opportunities for Minnesota Farmers.

- $400,000 to maintain the Industrial Hemp Pilot Program.

- $1 million in general funds and $500,000 in dedicated funds to establish a Pollinator Protection Account.

- $1.7 million in dedicated funds to provide fiscal sustainability of the Waste Pesticide Collection program.

- $220,000 in dedicated funds to establish a dedicated account to support administration of Certificates of Free Sale.

The Department has serious concerns with several of the provisions in the bill. It is unfortunate the Senate does not recognize the need to invest in the future at a time when our state has a projected $1.65 billion surplus, and at a time when Minnesota's agricultural economy is facing a downturn.

Not only does this budget present a $0 target in funding, it was also stated that an objective of this bill was a 0 target in additional staff. This bill includes several proposals that leave our agency with unfunded administrative duties. The ever increasing expectations of providing outcomes, efficiencies and reporting cannot be produced without investing in appropriate staffing levels. Proposing additional demands on our staff with limited assistance or administrative funding lessens our ability to ensure the integrity of our food supply, the health of our environment, and the strength of our agricultural economy.

Department of Agriculture Operating Costs

Your budget proposal not only ignores the agency operating cost request, but cuts the Department of Agriculture operating budget by $386,000 over the next biennium. This will have an impact on our agency's ability to be successful at enforcing the State's laws and providing services to Minnesotans.

Agriculture Growth, Research and Innovation (AGRI) Program

The Department has significant concerns with the changes made to the AGRI Fund. This program has created over 4,000 jobs in Minnesota and has leveraged over $200 million in private investment, which has helped to diversify and strengthen Minnesota's agricultural economy. We are disappointed that the Senate chose to remove language to allow grants for Farm to School and Beginning and Transitioning farmers.

In addition, the Department has concerns about earmarking AGRI dollars. Flexibility within this program allows the Department to be responsive to the ever changing needs of Minnesota's agricultural producers. The Senate proposal earmarks funds for Livestock Investment and Value-Added grants. While these are important components of AGRI, these earmarks tie our hands and limit funds for other grant categories within AGRI.

One example of the benefit of flexibility in this fund is the Biofuel Infrastructure Partnership (BIP) grant program. In 2015, an opportunity arose for the Department to leverage significant federal funds for increasing biofuel infrastructure throughout Minnesota. Minnesota was able to immediately coordinate with industry partners to develop a proposal that resulted in millions of federal dollars invested in Minnesota that otherwise would have gone to other states.

We work closely with a number of organizations and constituents to help us determine where to invest AGRI resources. This ensures that input from members of the public and the agricultural industry are included in decision-making within this fund.

Noxious Weeds and Invasive Plant Protection Grants

The Department was pleased to see investment in the Noxious Weed Assistance Account, which has been unfunded since its inception. More funding is certainly warranted at the local level. However, the agency is disappointed that programmatic funding included in the Governor's proposal was not included in this bill. As we have heard in many Committee hearings, Palmer amaranth is a big concern for Minnesota agriculture. New noxious weed threats like Palmer amaranth are difficult to manage if there are not statewide resources and coordinated planning. Funding for local governments is important, but so is funding for the staff who will support their work at the state level.

The Minnesota Noxious Weed Advisory Committee, which consists of representatives from state agencies, local units of government, private industry and the agricultural community has been supportive of increased funding to the Department's Noxious Weed program for the past seven years.

In order to administer the proposed $300,000 in grants, the agency will need administrative and staff resources.

Industrial Hemp Pilot Program

The Industrial Hemp Pilot Program has received 42 applications with a proposed 2,155 acres in total hemp planting for the 2017 growing season. This increase in participation shows the interest in developing the industrial hemp industry in Minnesota. Providing grants to hemp growers, as is proposed in the Senate bill, is not a necessary function of this program. The Department needs the Governor's request to fund the program coordinator which is necessary to manage the application process, ensure the state's Drug Enforcement Agency (DEA) permit is in line, license and approve growers, track and test planted acres, and review criminal background checks for each applicant. Without funding for this proposal, the program cannot continue.

Label Compliance
The Department has very serious concerns about the language in Section 8 of this bill. This language, which was never heard in Committee, would remove existing pesticide authorities from the agency and is not an acceptable language change.

The label compliance language in your bill has implications and potential unintended consequences for MDA's pesticide authorities. The Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) requires that pesticide users comply with label requirements. FIFRA allows states to regulate pesticides, which is done by the label. FIFRA also authorizes states to require more restrictive measures than are required of federal labels to address state-specific or region-specific concerns. This language would prevent Minnesota from being able to respond to local pesticide use concerns.

Overall, the Governor's budget provides $10.9 million in new important and targeted investments in Minnesota agriculture. The proposed Senate bill provides a cut of $300,000 over the next biennium. Agriculture is a cornerstone of Minnesota's economy. If we are going to keep our industry strong and competitive, and ensure Minnesotans the integrity of our food supply, the health of our environment, and the strength of our agricultural economy, Minnesota needs to make investments.

Thank you for your consideration of these items. I look forward to our continued work together to ensure that Minnesota continues to invest in our important agriculture sector.

Sincerely,

David J. Frederickson
Commissioner

CC:
Senate Finance Committee Chair Julie Rosen

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March 30, 2017

The Honorable Dan Fabian
Chair, House Environment and Natural Resources Policy and Finance Committee
359 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155

Dear Representative Fabian:

As the House Omnibus Environment and Natural Resources Budget bill (HF 888) comes to the House Floor, I want to outline provisions I support and provisions which are of concern.

Thank you for the work of your committee in assembling this bill. Thank you also for including in it the MPCA's Business-Friendly Data Services funding, the MPCA's policy language that extends the ban on construction of new open-air swine manure pits for five years, and partial funding for legal services for the DNR and MPCA NorthMet PolyMet mining permits. We appreciate your support for these important initiatives.

Aside from these provisions, however, there are many other budget provisions and policy items contained in this bill that would have long-term negative impacts on the environmental and public health services we provide to Minnesotans.

If HF 888 were enacted, Minnesotans would feel the impact in several ways:

- **For Businesses**: Permits will take longer, due to provisions from HF 1291 included in HF 888, as well as the significant cuts due to lack of an operational increase. Small business assistance, including MnTAP, would be reduced due to funding cuts for our Environmental Assistance and Cross Media work.
- **For Counties**: Counties that own one of the 42 construction and demolition landfills leaking contamination into the groundwater will need to deal with cleanup on their own. The MPCA would not have funding, under HF 888, to assist counties and others with addressing this contamination. Counties will need to look to their local taxpayers to cover these costs. Further, County recycling and composting efforts will have minimal support due to having few remaining technical staff.
- **For all Minnesotans**: The risk of indoor air contaminated vapors near 110 potential Superfund sites statewide will not be addressed under this bill, leaving homeowners without the information they need to protect the health of their children and families. Again, the response to help remedy this problem is not addressed in HF 888.

HF 888 makes numerous budgetary allocation changes to the Environmental Fund. These include transferring $4.35 million to the General Fund for other uses. The proposed budget additionally uses the Environmental Fund to cover $5.8 million of ongoing agency services that were previously funded from the General Fund. These two changes alone will put pressure on the Environmental Fund going forward, the agency's main funding source. This pressure would be greatly exacerbated in the coming years by the proposed removal of $20 million per biennium of Motor Vehicle Title Transfer Fee revenue, beginning in FY20, from the Environmental Fund (per HF 861, the House Omnibus Transportation bill).

In addition, I am concerned about the following "unintended consequences" of HF 888 that would have the same effect as budget cuts:

- **Agency absorbs more than $ 11 million over the biennium in operational increases.** By framing the agency's budget against FY16-17 spending – and not against FY18-19 projected costs – HF 888 requires the Agency to absorb significant biennial operational increases of more than $11 million, including the projected increase in our MN.IT service rates. This will negatively affect our service levels across the agency, as we leave potentially 35+ positions (4%) unfilled.
- **Trading $5 million over the biennium in new SCORE grants for MPCA employees that provide important solid waste management and pollution prevention work.** While MPCA supports SCORE grants to counties and the important solid waste outcomes they bring, this level of cuts (20+ staff) to our solid waste management units and pollution prevention work is unprecedented and shortsighted. This would eliminate staff addressing toxicity research, electronics recycling, solid waste reduction, recycling, GreenStep Cities, as well as the very staff local governments would contact to assist with their new SCORE funding.
- **An overly restrictive cap on the Remediation Fund cuts into our cleanup work.** Because by law we must respond to emergencies or unexpected expenses to protect human health, resources needed for these cases cannot be supplemented from the Environmental Fund because of the cap, forcing us to reduce equally necessary ongoing pollution cleanup at active Superfund and landfill sites. During these situations, we cannot wait until the Legislature is back in session to raise the cap. This is a problem in both HF 888 and SF 723.

At the same time this bill threatens service cuts across the agency, the Trump Administration is looking at a 45 percent reduction in US EPA grants to states for core services such as permits, compliance, and inspections. HF 888 neither recognizes nor accommodates any forthcoming federal cuts. Because HF 888 will slow down our work and eliminate funding for scores of positions, it would compound the impact of federal cuts.

The policy bills contained in HF 888 are also of concern. As a whole, they will add layers of procedural requirements that will slow down permitting and will introduce politics into the use of scientific facts. We oppose the following policy provisions of HF 888:

- **Delay the identification of polluted waters (HF 766)** Right now, 40 percent of our waters are impaired, or polluted. Minnesotans expect us to keep track of polluted waters and clean them up. This bill makes it harder for the state to do both. By allowing contested case hearings for *draft* lists of impaired waters (current law allows such hearings on *final* lists), this bill will delay the public's ability to know which Minnesota waters are polluted. Repeated hearings will stall important clean water work statewide. This bill also adds new requirements to permit notification that impede reaching the 150-day permitting goals set in 2011.

- **Set a dangerous precedent for landfill cleanups at Freeway Landfill** (HF 2212) This language indemnifies the responsible parties in the federal Superfund process underway at Freeway Landfill. This bill brings us no closer to cleaning up Freeway landfill and thus to protecting the Minnesota River and drinking water for cities of Burnsville and Savage. Instead of addressing the source of the problem, which is lack of cooperation from the landfill owner, it only shifts additional costs to all Minnesota taxpayers, instead of directing them towards the cause of the delays, price increases, and uncertainty the non-owners/operators are experiencing. In doing so, it sets the dangerous precedent of rewarding a responsible party for **not** cooperating with the cleanup of a contaminated site. In addition, the proposal is funded by draining the Closed Landfill Investment Fund that was designed to help take care of all 113 eligible landfills into perpetuity, not just one.

- **Threaten Minnesota's eligibility for $47 million Volkswagen settlement funds** (HF 1355) By restricting granting of the estimated $47 million Minnesota is slated to receive from the national Volkswagen settlement until spending is legislatively approved, HF 888 could render Minnesota ineligible for these funds. Faulty engines from VW's cheating polluted our air equivalent to having 300,000 more cars on the road over seven years. Minnesotans expect that our state will get its fair share of settlement dollars to make up for this pollution. This bill puts our settlement at risk by clouding the state's authority to receive and disburse these funds.

- **Slow down permitting** (HF 1291) This bill adds new requirements in the permitting process that will serve to slow down our permitting work, and cost taxpayer dollars. Language in this bill violates federal law, and is redundant of both state and federal law. This bill overturns a longstanding judicial precedent for burden of proof with no evidence to document the need for such a fundamental change. Most troubling, this bill makes the 150-day permitting efficiency goal into a requirement if we are to avoid re-posting incomplete permits as required by federal law. All of these changes are being made when there has been no evidence presented that there is a problem or what the nature of the problem is.

It is unfortunate that budget reallocations and cuts are being made in a time of surplus, especially since MPCA's FY18-19 budget came in slightly lower than FY16-17. However, I remain open to working with committee leadership in the coming weeks to forge a budget that meets Minnesotans' expectations for clean air, land and water that promotes health for all Minnesotans.

Sincerely,

John Linc Stine
Commissioner

cc: Stephanie Zawistowski
Anna Henderson

Minnesota Pollution Control Agency

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March 29, 2017

The Honorable Bill Ingebrigtsen
Chair, Senate Environment & Natural Resources Finance Committee
3207 Minnesota Senate Building
95 University Avenue West
St. Paul, MN 55155-1606

Dear Senator Ingebrigtsen:

As the Omnibus Environment and Natural Resources Appropriations bill, SF 723, is considered on the Senate Floor, I wanted to reiterate my concerns with this bill and for the impacts it would have on Minnesotans.

Thank you for restoring the Environmental Quality Board with your amendment in the Senate Finance Committee. I also appreciate that SF 723 includes Governor Dayton's "25 by 25" policy legislation, and the MPCA's policy language extending the ban on construction of new open-air swine manure pits for another five years. However, I remain concerned about many provisions in your bill, as I outlined in my March 22 letter and again here.

If SF 723 were enacted, Minnesotans would feel the impact in several ways.

- **For Businesses**: Permits will take longer. Neither our data nor new permit applications would be available online any time soon.
- **For Cities**: Many municipalities will not be able to renew their wastewater treatment plant permits due to suspension of standards. Without a renewed permit, a city would have enhanced exposure to citizen and third party lawsuits and may face problems in obtaining state funding through the Public Facilities Authority. In addition, cities would lose a tool for solid waste management through policy language in SF 723 that preempts municipal bans/fees on plastic and paper bags.
- **For Counties**: Counties that own one of the 42 construction and demolition landfills leaking contamination into the groundwater will need to deal with cleanup on their own. The MPCA would not have funding in the next two years, under SF 723, to assist counties and others with addressing this contamination. Counties will need to look to their local taxpayers to cover these costs.
- **For Citizen Volunteers**: Some 700 citizen volunteer stream-water monitors could no longer assist MPCA, because SF 723 would eliminate the staffing that supports and coordinates this program.
- **For all Minnesotans**: The risk of indoor air contaminated vapors near 110 potential superfund sites statewide will not be addressed under this bill, leaving homeowners without the information they need to protect the health of their children and families. Again, the response to remedy this problem is not addressed in SF 723.

While overall, SF 723 cuts appropriations to the MPCA by 3% per year from the Governor's proposed FY18-19 budget, it reduces General Fund appropriations to MPCA by 86 percent and transfers many of these programs to the Environmental Fund. This puts additional budgetary pressure on the Environmental Fund, which would cause problems in the event of any future reductions in revenue to that fund (such as future reductions in solid waste management tax revenue and/or the proposed $10 million reduction from Motor Vehicle Title Transfer Fee revenue that is contained in HF861, the House Omnibus Transportation bill).

In addition, your bill has several other "unintended consequences" that would have the same effect as cuts:
• **About $9 million of unfunded mandates on the Agency**. Three bills included in SF 723 (Senate Files 1087, 695 and 1802) will cost at least $9 million to implement, but the Omnibus bill provides no funding to do so.
• **$2.4 million reduction in legal services for NorthMet PolyMet mining proposal**. Without these funds, the state will be ill prepared for litigation that is expected no matter which way this permit is decided.
• **Potential loss of $16.5 Clean Water Fund water monitoring appropriation.** Because SF 723 cuts by 50% the base water monitoring appropriation, it throws our water monitoring program into the heated "supplement but not supplant" Constitutional debate and makes future Clean Water Fund water monitoring appropriations uncertain.
• **Agency absorbs inflationary cost increases.** By framing cuts against FY16-17 spending – and not against FY18-19 projected costs – SF 723 in effect requires the Agency to absorb inflationary costs of doing business.

Meanwhile, the Trump Administration is looking at a 45 percent reduction in US EPA grants to states for federal fiscal year 2018 for core services such as permits, compliance, and inspections. SF 723 neither recognizes nor accommodates any federal cuts. Because SF 723 will slow down our work, it would compound the impact of federal cuts.

The policy bills in SF 723 are also of concern. As a whole, they will limit citizens' voice in the environmental review process; add layers of procedural requirements that will slow down permitting; and introduce politics into the use of scientific facts. These include policy language that would:

• <u>Suspend phosphorus water quality standard for two years</u> (SF 695) SF 723 suspends the phosphorus water quality standard and several other water quality rules (anti-degradation, variance rules) for two years. As a result, the MPCA could write no permits for wastewater treatment plants during this timeframe. This, in turn, could leave cities exposed to third party lawsuits and may impede their ability to obtain funding for upgrades to aging infrastructure from the Public Facilities Authority. These suspensions are illegal under federal law.

• <u>Delay the identification of polluted waters</u> (SF 672) Right now, 40 percent of our waters are impaired, or polluted. Minnesotans expect us to keep track of polluted waters and clean them up. This bill makes it harder for the state to do both. By allowing contested case hearings for *draft* lists of impaired waters (current law allows such hearings on *final* lists), this bill will delay the public's ability to know which Minnesota waters are polluted. Repeated hearings will stall important clean water work statewide. This bill also adds new requirements to permit notification that impede reaching the 150-day permitting goals set in 2011.

• <u>Require redundant reviews of water decisions</u> (SF 695) Current law has a process for anyone to challenge a decision of a commissioner. This language adds several layers to that process -- only for MPCA -- with no demonstrated need. Under this bill, one person could grind our clean water work to a halt. This bill overturns a longstanding judicial precedent of deference to agency subject-area expertise. This bill also prohibits guidance, or clarifying documents that help permit holders understand what is required of them. In the end, this bill stalls our permitting efficiencies, delays business growth and expansion, tears down the work of our highly trained and hard-working scientists, and keeps us from doing the work that Minnesotans expect.

• Threaten Minnesota's eligibility for $47 million Volkswagen settlement funds (SF 914 and SF 1256) By requiring or making legislative appropriations of the estimated $47 million Minnesota is slated to receive from the national Volkswagen settlement, these bills could render Minnesota ineligible for these funds. Faulty engines from VW's cheating polluted our air equivalent to having 300,000 more cars on the road over seven years. Minnesotans expect that our state will get its fair share of settlement dollars to make up for this pollution. These bills put our settlement at risk by clouding the state's authority to receive and disburse these funds.

• Slow down permitting (SF1087) This bill adds new requirements in the permitting process that will serve to slow down our permitting work and cost taxpayer dollars. Language in this bill violates federal law and is redundant of both state and federal law. This bill overturns a longstanding judicial precedent for burden of proof with no evidence to document the need for such a fundamental change. Most troubling, this bill makes the 150-day permitting efficiency goal into a requirement if we are to avoid re-posting incomplete permit applications as required by federal law. All of these changes are being made when there has been no evidence presented that there is a problem or what the nature of the problem is.

• Remove local government tools for solid waste management (SF 1195) Local governments could no longer consider bans or fees on paper or plastic bags as part of their strategy to meet their statutory responsibility to manage solid waste under this language. Without a full range of options to consider, it will be harder for local units of government to efficiently manage their solid waste.

• Remove requirement for silica sand rulemaking (SF 1310) This language discards a broad stakeholder and citizen process to provide certainty and transparency to environmental protection rules around silica sand mining. These rules would set a common floor of expectations for this industry, in anticipation of the future resumption of silica sand mining when economic conditions allow.

This bill undermines the MPCA's core work of protecting human health and the environment. In a year of surplus, and considering the MPCA's budget request for FY18-19 was actually a slight reduction from FY16-17, it is troubling to see cuts such as these with no supporting evidence. I remain open to working with committee leadership in the coming weeks to forge a budget that meets Minnesotans' expectations for clean air, land and water that promotes health for all Minnesotans.

Sincerely,

John Linc Stine
Commissioner

cc: Stephanie Zawistowski
Anna Henderson

April 7, 2017

The Honorable Kurt Daudt
Speaker of the House
463 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, Minnesota 55155

The Honorable Melissa Hortman
Minority Leader
267 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, Minnesota 55155

The Honorable Dan Fabian, Chair
Environment and Natural Resources
Policy and Finance
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100 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, Minnesota 55155

The Honorable Rick Hansen, DFL Lead
Environment and Natural Resources
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247 State Office Building
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St. Paul, Minnesota 55155

The Honorable Sarah Anderson, Chair
State Government Finance
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St. Paul, Minnesota 55155

The Honorable Sheldon Johnson, DFL Lead
State Government Finance
259 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, Minnesota 55155

Dear Representatives Daudt, Hortman, Fabian, Hansen, Anderson and Johnson:

DNR faces a number of budget challenges, including fund deficits, growing demands, inflationary pressures, lack of stable funding for ongoing operational needs, and the need to address emerging issues. Unfortunately, the current House proposal, HF888, does not comprehensively address the challenges we laid out in our budget presentation, and in many cases, adds to our concerns. Adding to these concerns is the House Omnibus State Government Budget proposal, HF691(SF605), which will further decrease funds available to DNR or fee accounts already projecting in the red.

We appreciate your recognition of the need for increased funding for our state parks system, for resources to ensure our forests are healthy and can support a growing demand for Minnesota timber, increased funding for conservation enforcement and easement stewardship, and funding for legal support to ensure the State can defend decisions when challenged in court. While the House budget does address several critical budget issues, it falls short of the Governor's budget proposal in helping address fund deficit projections, impacts of inflation, and some critical funding requests.

The Governor's budget proposal provided for fee increases that are vital to continuing the level of services the public expects and desires. To that end, the Governor's budget recommended modest fee increases for hunting and fishing licenses and for certain recreational vehicle registrations to maintain and restore critical functions and services for those fee-payers. Most of these fees have not been increased in over 10 years and – even with the recommended increases – are similar or even less than fees in nearby states. As you know, affected constituents have supported these requests. Absent fee increases for these activities, we will need to implement reductions within accounts with projected deficits this biennium.

In addition, the current House budget does not address inflationary pressures. The Governor's budget included an operating adjustment for known and anticipated inflationary pressures, largely associated with employee contracts. Funding for the operating adjustment in our fee related programs is reliant on fee increases due to projected fund deficits. Lack of funding for the known inflationary increase alone will impact the agency by up to 96 workers by FY 2019. Some of the impacts of this are addressed in this document, but please note that every division will be impacted and need to reduce activities. Any additional increase or budget pressure, including unanticipated contract increases and employer pension increases, would only create a larger impact to the agency and the services we provide.

The following is a program area summary of potential impacts of this budget.

Parks and Trails

While the House budget increases fees for state parks and funds our state park request, it does not address deficits in the recreational vehicle accounts. The result will be further reductions to snowmobile and ATV grant-in-aid programs to local clubs; reductions to DNR trail grooming and maintenance activities; and reductions to water access, fishing pier and water trail maintenance, including probable closures of some public facilities due to lack of maintenance.

In addition, with the lack of an operating adjustment, there will still need to be adjustments to parks operations to account for the potential need to reduce 20 workers. Impacts could include reduced services or operating seasons at state parks or further reductions to state trail maintenance. We will begin to analyze options for service reductions in order to minimize additional impacts of revenue losses.

Fish and Wildlife

The House budget does not address the fund deficit in the Game and Fish Operating Account or provide an operating adjustment or requested investments. Lack of an operating adjustment will require a reduction of a minimum of 29 workers based on known inflationary costs. Additional cost pressures and lack of available resources due to projected fund deficits could increase this number to 40 staff.

Reductions to fish and wildlife management will include reduced habitat management of Wildlife Management Areas (WMA), limiting access to WMAs due to inability to maintain roads, reduced surveys on deer, reduced depredation responses, at least 200 fewer lakes stocked with walleye, creel surveys conducted on only three lakes, fewer lake surveys to provide critical information to manage lakes, and less coordination with lake associations and conservation clubs. These program reductions will negatively impact the quality of hunting and angling in the state, and will pose a long term threat to the economic vitality of the many businesses and communities that rely on these resources.

Enforcement

While the House budget provides $1.4 million annually for the Enforcement program area, the Governor recommended additional funding for 17 currently-vacant field positions as well as an operating adjustment. The $1.4 million provided in the House budget will cover known inflation for the FY 2018-19 biennium only. If changes to the employer pension are adopted, as proposed in HF1288, additional reductions of up to 10 positions would be needed to accommodate the additional costs. This would bring the total vacancies to 27 staff if all the inflationary adjustments are taken into account. This equates to a vacancy rate of close to 15 percent and would be one of the lowest conservation law enforcement levels this agency has experienced in many years.

Forestry

The House budget funds the Governor's priorities for forest management. While we appreciate the recognition of the need for these investments, we are concerned about the potential impacts to the Forest Management Investment Account (FMIA). The proposal would draw this fund down to $692,000 by FY 2021 and creates the likelihood of the FMIA account being overcommitted in the future. A balance of $2 million in the FMIA is desired for cash flow purposes because timber markets can be volatile. Weather conditions creating poor harvest years can reduce revenues. Our revenues in FY 2017 are trending down from the current forecast due to impacts from this winter and poor harvest conditions. Poor harvest conditions, fire and timber markets all impact the amount of funds available in the FMIA.

Ecological and Water Resources

The House budget does not address the fund deficit in the Aquatic Invasive Species (AIS) account. Based on current projected revenues for the account, the House budget is over-appropriating the fund. To maintain a positive balance, we will continue to implement reductions in AIS grants, prevention, training and technical assistance activities. If it is the legislature's desire to not sustain prior levels of activity for AIS, we will need to reevaluate our AIS prevention strategies, especially with regard to aid to counties.

In addition, the House budget does not include funding for an operating adjustment on a number of the Governor's recommendations. Without these funds, there will be slower decision times for public waters permits, reduced habitat management for non-game species, and reduced capacity to provide information on rare or endangered species.

Agency-wide Issues

Minnesotans are proud of our nationally-recognized outdoor recreation system; our hunting and angling opportunities; and the economic opportunities in our tourism, timber, and mining industries. Without fee increases and additional appropriations to maintain our current service levels and make strategic investments, we stand to lose significant ground on making Minnesota the recreation and business development destination for all.

Policy

There are a number of policy items in the budget bill. While many of these policy items are supported by the agency, there are also several we have concerns about. The Governor has stated that policy provisions should be carried in their own bill. We concur with the Governor that these items should not be part of the budget bill process and should proceed on their own. Some of the more problematic policy items are as follows:

- Changes to the buffer law, including changes that reduce buffer requirements from 50 feet to 16.5 feet on over 48,000 miles of watercourse. This change will greatly diminish water quality protections.
- A lead shot rulemaking prohibition will set limits on the DNR's authority to provide wildlife protections on state lands.
- A no net gain of state lands policy is unnecessary. Under current law, DNR is required to get county approval for acquisition of Wildlife Management Areas WMA(s), WMA Easements, scientific and natural areas, and any lands purchased with Reinvest in Minnesota (RIM) match funds. The DNR is committed to working with counties to acquire lands from interested/willing landowners that are supported locally, and meet the strategic goals of the DNR.
- Allowing the overnight use of stands in WMAs preempts the public's full utilization for public lands and resources. DNR has concerns about this language.
- DNR objects to the prescriptive nature of the Sand Dunes State Forest Management Plan language. DNR land managers need to maintain the ability to make decisions that are best for the land for the people of Minnesota. Local county government may not necessarily represent or adequately consider the interests of citizens and stakeholders from across the state (e.g., forest industry, recreationists, those concerned about management of rare species/habitats).

Interaction with State Government Finance Omnibus Bill

In addition to concerns in the House Environment and Natural Resources Policy and Finance Omnibus bill, the House State Government Finance Omnibus bill, HF691 (SF605), imposes reductions that further impact our ability to provide results and services Minnesotans have come to expect. Of particular concern are provisions which mandate a reduction to state agencies for savings that could be realized by allowing employees to opt out of state health insurance benefits, and MN.IT cost reductions.

Uncertainty about how much savings will be realized, combined with the challenges of allocating those savings to agencies, makes it a risky proposition to try to capture these savings in advances through reductions in appropriations.

If savings are allocated to DNR programs, it would likely impact our fee/revenue programs including, hunting and fishing licenses, recreational vehicle, camping, and timber sales. The proposal would require a transfer of fee revenue from these programs to the general fund. We oppose any diversion of fees to the general fund.

Further, the DNR opposes the limit on the number of (FTE) staff, restrictions on the use of salary savings, and salary limits. These provisions impede the DNR's ability to manage critical response needs and meet seasonal staffing demands (wildfire, disaster response, state parks, fishing/hunting seasons).

The DNR has significant concerns about many of the proposed rulemaking changes that could impact our agency's ability to effectively and efficiently carry out its natural resources responsibilities including our obligation to assure viable game and fish populations over the long term. The proposed changes increase costs and the time needed to finish a rule and degrade the responsiveness of agency rulemaking.

Thank you for the opportunity to work with you this session on the budget. I look forward to continuing this critical work for the benefit of all Minnesotans.

Sincerely,

Tom Landwehr
Commissioner

c: House Environment and Natural Resources Policy and Finance Committee Members

DEPARTMENT OF NATURAL RESOURCES

March 30, 2017

The Honorable Paul Gazelka
Senate Majority Leader
3113 Minnesota Senate Building
95 University Avenue West
St. Paul, Minnesota 55155-1606

The Honorable Tom Bakk
Senate Minority Leader
2221 Minnesota Senate Building
95 University Avenue West
St. Paul, Minnesota 55155-1606

The Honorable Bill Ingebrigtsen
Committee Chair, Environment & Natural Resources Finance
3207 Minnesota Senate Building
95 University Avenue West
St. Paul, Minnesota 55155-1606

The Honorable David Tomassoni
Ranking Minority Member, Environment & Natural Resources Finance
2235 Minnesota Senate Building
95 University Avenue West
St. Paul, Minnesota 55155-1606

The Honorable Mary Kiffmeyer
Committee Chair, State Government Finance & Policy & Elections
3103 Minnesota Senate Building
95 University Avenue West
St. Paul, Minnesota 55155-1606

The Honorable Jim Carlson
DFL Minority Lead, State Government Finance & Policy & Elections
2207 Minnesota Senate Building
95 University Avenue West
St. Paul, Minnesota 55155-1606

Dear Senators Gazelka, Bakk, Ingebrigtsen, Tomassoni, Kiffmeyer and Carlson:

Over the last few months, the Department of Natural Resources (DNR) has met with the Senate Environment and Natural Resources Finance Committee to present our base budget, discuss our programs, review the challenges we are facing, and outline the Governor's recommendations that help address our budget needs in the coming biennia. Unfortunately, the current Senate proposal (SF723) does not address any of the challenges we laid out in our budget presentations, and in many cases, only adds to those concerns. Adding to these concerns is the Senate Omnibus State Government Budget proposal (SF605), which will decrease funds available to DNR or fee accounts already projecting in the red.

DNR faces a number of budget challenges, including fund deficits, growing demands, inflationary pressures, lack of stable funding for ongoing operational needs, and the need to address emerging issues. The Governor recognized that fee increases were vital to continuing the level of services the public expects and desires. To that end, the Governor's budget recommended modest fee increases in the Game and Fish Fund and recreational vehicle funds to maintain and restore critical functions and services to those fee-payers. Most of these fees have not been increased in many years and – even with the increases – are similar or even less than fees in nearby states. As you know, affected constituents have supported these requests.

Absent fee increases for these funds, we will need to implement reductions within accounts with projected deficits this biennium.

In addition, the current Senate budget does not address inflationary pressures. The Governor's budget included an operating adjustment for known and anticipated inflationary pressures. Many of these adjustments relied on fee increases. Lack of funding for the known inflationary increase alone will impact the agency by up to 96 workers by FY 2019. Any additional increase or budget pressure, including unanticipated contract increases, employer pension increases, and litigation costs, would only create a larger impact to the agency and the services we provide.

Finally, the Senate budget does not address a number of critical funding needs identified in the Governor's budget. Instead, the Senate budget reduces funding for a number of critical program areas without eliminating any agency responsibilities.

The following is a program area summary of potential impacts of this budget.

Parks and Trails

The Senate provides $1 million per year for Parks and Trails but does not fully restore the $3.45 million of one-time funding to Parks and Trails nor include any operational adjustment. This will result in a reduction of at least 46 workers. With the potential for additional cost pressures, the impact could be up to 70 workers. This equates to 60 to 120 staff who will have their hours reduced or positions eliminated.

This reduction of staffing will result in major changes to current parks operations, including elimination of camping and other services at up to 34 state parks. We will begin to analyze options for service reductions in order to minimize additional impacts of revenue losses. Other changes include further reductions to snowmobile and ATV grant-in-aid programs to local clubs; reductions to DNR trail grooming and maintenance activities; and reductions to water access, fishing pier and water trail maintenance, including closures of some public facilities due to lack of maintenance.

Fish and Wildlife

The Senate Budget does not address the fund deficit in the Game and Fish Operating Account or provide an operating adjustment or requested investments. Lack of an operating adjustment will require a reduction of a minimum of 29 workers based on known inflationary costs. Additional cost pressures and lack of available resources due to projected fund deficits could increase this number to 40 staff.

Reductions to fish and wildlife management will include reduced habitat management of Wildlife Management Areas (WMA), limiting access to WMAs due to inability to maintain roads, reduced surveys on deer, reduced depredation responses, fish stocking will be reduced or eliminated impacting at least 200 lakes, creel surveys conducted on only three lakes, fewer lake surveys to provide critical information to manage lakes, and less coordination with lake associations and conservation clubs. These program reductions will impact the quality of hunting and angling in the state, and will pose a long term threat to the economic vitality of the many businesses and communities that rely on these resources.

Enforcement

While the Senate budget provides $1 million annually for the Enforcement program area, the Governor had recommended funding for 17 vacant field positions as well as an operating adjustment. The $1 million provided will cover known inflationary increases for FY 2018 only. We will again be in deficit situation in FY 2019 and will need to reduce positions beyond the current vacancies to manage at this level of funding. If changes to the employer pension are adopted, as proposed in SF1064, additional reductions of up to 10 positions would need to occur to accommodate the additional costs. This would bring the total vacancies to 30 staff if all the inflationary adjustments are taken into account. This equates to a vacancy rate of over 15 percent and would be one of the lowest conservation law enforcement levels this agency has experienced.

Forestry

The Senate budget refinances general fund with Forest Management Investment Account for a net increase of $1 million in the FY 2018-19 biennium and $500,000 in the FY 2020-21 biennium. This net increase will only cover the known inflationary increases for FY 2018 and will require reduction of services in FY 2019 that would equate to 12 workers. In addition, the Senate budget does not provide funds for reforestation or investments in critically needed new technology for forest management.

Reforestation is a statutory requirement. Without identified funding, reductions in timber sales or other forest management would need to occur. Without field foresters to put up timber and lacking the resources to reforest harvested stands, reductions would be seen in timber harvest at a time the industry is requesting increased harvest levels, and Louisiana Pacific is looking to expand into Minnesota. Increased demand and reduced supply will drive up costs. In addition, lack of funding for new technology will continue the current inefficient data systems.

Ecological and Water Resources

The Senate budget does not include funding for an operating adjustment on a number of Governor's recommendations. In addition, the proposal significantly reduces funding for critical AIS and water programs. To accommodate this reduction, DNR would significantly reduce AIS inspections and decontamination; reduce groundwater monitoring and assistance; slow or eliminate the issuance of new appropriation permits; and lose the ability to provide information on rare or endangered species. These reductions would put our lakes and rivers at higher risk of new AIS infestations and reduce our ability to ensure that communities and businesses have adequate and sustainable clean water into the future. In addition, lack of information due to these reductions will lead to a more conservative approach to permit decisions, resulting in more permit denials.

Agency-wide Issues

The Senate budget does not include funding for legal support, web modernization, and conservation easement stewardship. Funding for these areas is critical to ensuring we defend our decisions when challenged in court, we communicate effectively to the public, and we protect our previous investments in easements. Without dedicated funding for these needs, they will not be addressed.

Policy

There are a number of policy items in SF723. While many of these policy items are provisions that are supported by the agency, there are also several that we have raised concerns about. The Governor has stated that policy provisions should be carried in their own bill. We concur with the

Governor that these items should not be part of the budget bill process and should proceed on their own. Some of the more problematic policy items are the inclusion of the following:

- Changes to the buffer law, including changes that reduce buffer requirements from 50 feet to 16.5 feet on over 48,000 miles of watercourse. This change will greatly diminish water quality protections.
- Language impacting calcareous fens would present a serious risk to a rare and sensitive type of wetland by requiring that temporary groundwater reductions must be allowed as part of groundwater appropriation plans and/or water use permits. SF723 also weakens protections for domestic well owners.
- A lead shot rulemaking prohibition will set limits on the DNR's authority to provide wildlife protections on state lands.
- Allowing the importation of golden shiner minnows which will present a serious risk of introductions of environmentally devastating invasive species.
- Some policy provisions, such as unpromulgated rulemaking may have unintended process implications which could delay permitting and create significant fiscal burden. SF723 does not recognize the costs of rulemaking.
- DNR opposes changes that would transfer final decisions on contested case hearings from the agency to the administrative law judges. These decisions often involve highly technical issues within the agency's expertise (e.g. dam safety or mine permitting). Our concern is the provision which grants a regulated party a complete defense to compliance with administrative rules if compliance costs exceed $50,000. The major effects of this provision would impact mostly large scale projects like mining and dam safety and significantly weaken the DNR's ability to ensure continued compliance with rules designed to protect the safety, health and welfare of Minnesota's citizens and potentially jeopardize future permits.

Interaction with State Government Finance Omnibus Bill

In addition to concerns in the Senate Environment Omnibus bill, the Senate State Government Finance Omnibus bill, SF605, imposes reductions that further impact our ability to provide results and services Minnesotans have come to expect. Of particular concern are provisions which mandate a reduction to state agencies for savings that could be realized by allowing employees to opt out of state health insurance benefits, employee gainsharing, and MN.IT cost reductions. Uncertainty about how much savings will be realized, combined with the challenges of allocating those savings to agencies, makes it a risky proposition to try to capture these savings in advances through reductions in appropriations.

If savings are allocated to DNR programs, it would likely impact our fee/revenue programs including, hunting and fishing licenses, recreational vehicle, camping, and timber sales. The proposal would require a transfer of fee revenue from these programs to the general fund. We oppose any diversion of fees to the general fund. The bill contains a similar proposal related to MNIT enterprise service reductions.

DNR opposes the rulemaking technical changes as proposed in Article 2, Sections 7 through 9 of SF273. When combined with the rulemaking provisions in SF723 it is certain to decrease efficiencies and create additional burden for the public, in particular, permittees.

Minnesotans are proud of our nationally-recognized outdoor recreation system; our hunting and angling opportunities; and the economic opportunities in our tourism, timber, and mining industries. Without fee increases and additional appropriations to maintain our current service levels and make strategic investments, we stand to lose significant ground on ensuring that Minnesota is the recreation and economic destination for all.

Thank you for the opportunity to work with you this session on budget and policy items. I look forward to continuing this critical work for the benefit of all Minnesotans.

Sincerely,

Tom Landwehr
Commissioner

c: Senate Environment & Natural Resources Finance Committee
State Government and Policy and Elections Committee

BOARD OF WATER AND SOIL RESOURCES

March 23, 2017

The Honorable Dan Fabian
Chair, House Environment & Natural Resources Policy and Finance Committee
359 State Office Building
100 Rev. Dr. Martin Luther King Jr, Blvd.
St. Paul, MN 55155

Dear Representative Fabian,

Thank you for the opportunity to provide comments on House File 888, the Omnibus Environment and Natural Resources Budget bill.

Minnesotans value their natural resources and have high expectations for land and water conservation and stewardship. Minnesotans also expect a great deal from the state agencies and our local governments charged with accomplishing conservation results and we take that responsibility seriously. Working in partnership, we are making progress to protect and restore Minnesota's soil and water resources.

There have been many important conversations throughout this session about environment and natural resources issues. We are open to discussions about how policy and process can be improved, but certain budgetary and policy provisions contained in this bill are not supportive of or consistent with state and local conservation needs and goals. If enacted, this bill will adversely impact our state's environment and natural resources, including impairment to the capacity of the locally-led conservation delivery system. The following items included in the HF888 Omnibus Bill are of specific concern to our agency:

- <u>Elimination of $22 million to local Soil and Water Conservation Districts (SWCDs)</u>
  SWCDs are the front lines of the state's conservation delivery system utilizing their knowledge, expertise and trust to help landowners target conservation practices where they can provide the greatest benefit. The capacity of the locally-led conservation delivery system is a hallmark that sets Minnesota apart nationally. Legislation passed in 2015 provided that in FY18-19 and beyond the General Fund would provide the necessary base so that SWCDs had a stable, consistent, predictable funding source they could rely on for providing technical and financial assistance to private landowners. Shifting this work to the Clean Water Fund would reduce the amount of on-the-ground conservation projects and landowner assistance significantly. It could also mean federal money left on the table if the state funding for MN CREP is impacted as part of such a shift.

- <u>Significant changes to the buffer law</u>
  Last year the legislature made noteworthy bipartisan progress to pass a modified buffer law that provided greater clarity and more flexibility for both local governments and landowners. Since that time, SWCDs have been working closely with landowners to help them understand the law and get buffers and alternative practices in place. Local governments have the critical relationships with landowners and the knowledge of the landscape to get the job done and the results so far have been encouraging. A preliminary review of compliance shows the majority of counties are between 60-100% already compliant. Minnesotans aren't just ready to implement the law, they're already doing it, and we believe that the existing law is workable and will lead to continued progress.

- <u>Wetland Policy Provisions</u>
  The bill contains wetland policy provisions that could lead to diminution of important transparency and public notice and comment provisions, including language that allows for a wetland replacement plan to be determined within an Environmental Impact Statement. This impacts local decision-making on wetland sites.

We look forward to finding ways to work through our initial concerns and we appreciate your commitment to the environment and natural resources of Minnesota.

Sincerely,

John Jaschke
Executive Director
Board of Water and Soil Resources

BOARD OF WATER AND SOIL RESOURCES

March 22, 2017

The Honorable Bill Ingebrigtsen
Chair, Senate Environment & Natural Resources Finance Committee
3207 Minnesota Senate Building
95 University Avenue West
St. Paul, MN 55155-1606

Dear Senator Ingebrigtsen,

Thank you for the opportunity to provide comments on Senate File 723, the Omnibus Environment and Natural Resources Budget bill.

Minnesotans value their natural resources and have high expectations for land and water conservation and stewardship. Minnesotans also expect a great deal from the state agencies and our local governments charged with accomplishing conservation results and we take that responsibility seriously. Working in partnership, we are making progress to protect and restore Minnesota's soil and water resources.

There have been many important conversations throughout this session about environment and natural resources issues. We are open to discussions about how policy and process can be improved, but certain budgetary and policy provisions contained in this bill are not supportive of or consistent with state and local conservation needs and goals. If enacted, this bill will adversely impact our state's environment and natural resources, including impairment to the capacity of the locally-led conservation delivery system. The following items included in the SF723 Omnibus Bill are of specific concern to our agency:

- <u>Elimination of $22 million to local Soil and Water Conservation Districts (SWCDs)</u>
  SWCDs are the front lines of the state's conservation delivery system utilizing their knowledge, expertise and trust to help landowners target conservation practices where they can provide the greatest benefit. The capacity of the locally-led conservation delivery system is a hallmark that sets Minnesota apart nationally. Legislation passed in 2015 provided that in FY18-19 and beyond the General Fund would provide the necessary base so that SWCDs had a stable, consistent, predictable funding source they could rely on for providing technical and financial assistance to private landowners. Shifting this work to the Clean Water Fund would reduce the amount of on-the-ground conservation projects and landowner assistance significantly. It could also mean federal money left on the table if the state funding for MN CREP is impacted as part of such a shift.

- <u>Significant changes to the buffer law</u>
  Last year the legislature made noteworthy bipartisan progress to pass a modified buffer law that provided greater clarity and more flexibility for both local governments and landowners. Since that time, SWCDs have been working closely with landowners to help them understand the law and get buffers and alternative practices in place. Local governments have the critical relationships with landowners and the knowledge of the landscape to get the job done and the results so far have been encouraging. A preliminary review of compliance shows the majority of counties are between 60-100% already compliant. Minnesotans aren't just ready to implement the law, they're already doing it, and we believe that the existing law is workable and will lead to continued progress.

- <u>Base Program Reductions and Protection</u>
  In a time where business costs such as building leases, technology and security upgrades, and financial assurance measures are growing burdens on agency capacity, cutting into operational support needs by $428,000 means lowering the levels of acceptable risk and lessening the responsiveness and service to the agency's clientele. Similarly, reducing the state funding commitment to Counties, Drainage Authorities and local voluntary Joint Powers efforts will diminish the availability and efficiency of services provided directly to citizens. Finally, there are wetland protection provisions included that could lead to diminution of important transparency and public notice and comment provisions.

We look forward to finding ways to work through our initial concerns and we appreciate your commitment to the environment and natural resources of Minnesota.

Sincerely,

John Jaschke

John Jaschke
Executive Director
Board of Water and Soil Resources

Environmental Quality Board
520 Lafayette Road North
Saint Paul, MN 55155

April 7, 2017

Senator Bill Ingebrigtsen
Minnesota Senate Building, Room 3207
95 University Avenue West
St. Paul, MN 55155

Representative Dan Fabian
359 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155

Dear Senator Bill Ingebrigtsen and Representative Dan Fabian,

Thank you for the opportunity to comment on the Omnibus Environment Finance bill, House File 888. The Environmental Quality Board (EQB or Board) has the following concerns with budget and policy provisions contained in the bill. We look forward to addressing these concerns during the conference committee process.

Budget Provisions in HF 888:
EQB Environmental Review Continuous Improvement: The Governor's 2018/19 budget proposes the continuation and expansion of an effort to modernize the Environmental Review (ER) Program, with an emphasis on training and support to local governments. Having an ER Program that is efficient and effective, and meets the needs of Minnesota businesses and citizens requires an ongoing investment. Without this funding, the EQB will be forced to cut two positions and will be unable to continue updates to ER rules, enhanced data collection, and outreach to local partners.

EQB Base Funding: The level of base funding is consistent in both the House and Senate. The EQB prefers the appropriations language from the Senate bill, Senate File 723.

Policy Provisions Contained in HF 888:
Below is a list of policy provisions contained in House File 888 that we have concerns with, all of which were inserted in the bill through amendments in Finance committees. The EQB's enabling statutes were passed into law in 1973 and have been left unchanged for 44 years. While we are open to exploring ideas for reform, we are generally concerned about the impacts of passing major structural changes without the opportunity for publicly vetting the impacts of these proposals.

Changes to EQB jurisdiction: House File 888 contains changes to the Board's enabling statutes, and related repealers that would undermine the mission of the Board. These provisions prevent the Board from leading interagency work. The ability of the Board to convene interdepartmental and citizen task forces and subcommittees is instrumental in providing for interagency coordination and public participation. The Board opposes these changes.

Changes to EQB membership: Both Senate File 723 and House File 888 propose changes to EQB membership and criteria. Adding additional requirements for applicants would narrow the field of eligible applicants and refocus the Board away from broader environmental issues. The changes would also add three additional citizen members, changing the balance of Board discussions and decisions, and adding costs to an already lean budget.

These policy changes would benefit from further study and consideration. We thank you for a continued conversation on ensuring robust and geographically distributed citizen participation, and efficient environmental review.

Thank you for your consideration,

David Frederickson
Chair, Environmental Quality Board
Commissioner, Minnesota Department of Agriculture

Minnesota Department of Health

PROTECTING, MAINTAINING AND IMPROVING THE HEALTH OF ALL MINNESOTANS

April 7, 2017

Senator Michelle Benson
Co-Chair, Health and Human Services
Minnesota Senate Building, Room 3109
95 University Avenue West
St. Paul, MN 55155

Senator Jim Abeler
Co-Chair, Health and Human Services
Minnesota Senate Building, Room 3215
95 University Avenue West
St. Paul, MN 55155

Dear Senator Benson and Senator Abeler:

Once again, I wish to express my thanks for your hard work in crafting the Senate's 2017 Health and Human Services Omnibus Budget Bill (SF 800). As I mentioned during my testimony, focusing on prevention is the best long-term strategy for turning the curve on health care costs and improving Minnesotans' health and quality of life. The Senate bill prioritizes investments to protect vulnerable adults, address opioid abuse, and give our highest-risk children a healthier start in life. However, I have serious concerns about the bill's inadequate funding for many key public health services.

I appreciate the bill's investment in Vulnerable Adult Act enforcement and the extensive engagement by Senator Housley on this issue. MDH plays a vital role in protecting over 125,000 vulnerable adults living in nursing homes and home care settings. While this bill increases investigations of alleged maltreatment, it funds just a quarter of the Governor's revised March recommendation. The Senate's proposal is insufficient to meet rapidly rising demand and ensure the timely response that Minnesotans have a right to expect. MDH has been working to streamline its processes, but without the Governor's request we will not be able to double the number of investigations, complete investigations within statutory timeframes, communicate swiftly and consistently about the status of complaints, develop more efficient case management systems, and investigate lower-level allegations to prevent more serious problems.

The Senate bill recognizes the importance of evidence-based family home visiting as a proven strategy to give high-risk children a healthy start in life. Unfortunately, the Senate's proposal is not nearly enough to expand this vital service to every corner of the state. While the Governor's proposal would serve an additional 3,660 teen parents and their children throughout the state each year once fully phased-in, the Senate proposal would serve only 230 families in approximately seven county or tribal areas in the first year—and half that number ongoing. The Senate proposal also does not include funding needed to build capacity for evidence-based models in communities that do not offer them today, so that these proven services are available regardless of where children live. Without full funding of the Governor's request, we will be neglecting the needs of our highest-risk children in many parts of Minnesota.

Preventing opioid use and the crisis of addiction in Minnesota is a vital and shared priority. I encourage you to consider adding the American Indian prevention grant funds included in the Governor's budget to specifically address the disproportionate effect of the crisis in American Indian communities. Minnesota ranks worst of all states in deaths due to drug overdoses among American Indians (25 deaths in 2016) and worst of all states for the rate of opiate overdose deaths among American Indians (57 deaths per 100,000). The rate of opioid overdose deaths for American Indians in Minnesota is six times higher than for whites in Minnesota. That is the greatest disparity in the nation and a tragedy that requires a more urgent response.

While I appreciate the public health investments in this bill, I have serious concerns about how they are funded. The bill cuts MDH operations and shifts a payment to local public health. It also fails to include the operating adjustment and fee increases necessary to sustain existing programs. Demand for public health services and public health threats are growing rapidly, not declining. The cost of delivering effective government services grows each year. While we make tough choices and continuously find ways to do more with less, we cannot maintain the services Minnesotans expect and deserve without adjusting budgets to reflect growing demand and costs. Furthermore, at a time when states' federal funding for public health is in question, it is not prudent to reduce or ignore the basic costs of services funded by the state's budget. The Governor's budget recognizes this reality by funding reasonable operating adjustments and modestly increasing fees for six programs the legislature explicitly chose to fund through fees.

By not including the Governor's proposed operating adjustment and fee increases, combined with the base reduction, the Senate bill represents a reduction of approximately 70 positions agency-wide that provide services that Minnesotans expect and deserve. This erosion of services could result in all or some of the following:

- Further delays in investigating complaints of maltreatment of vulnerable adults in nursing homes, home care, and other health facilities.
- Less capacity to run the Safe Harbor for Youth program for victims of sexual exploitation.
- Delays in laboratory testing for rabies, measles, mumps, influenza, and Zika and less ability to test for radiation in the environment near nuclear power plants.
- Reduced oversight of medical cannabis manufacturers, which is necessary to ensure safe and legal access to medical cannabis for patients with debilitating health conditions.
- Lessened ability to issue licenses and permits or investigate complaints in a timely fashion – which undermines the vital work of ensuring health care practitioners meet state qualifications and standards, preventing contamination of drinking water and blood supplies, and verifying that restaurants, pools, and lodging establishments are safe.
- Overall, less flexibility to respond to state-level priorities and emergencies and meet our match requirements for federal funds.

In particular, if you do not agree to the Governor's recommended fee increase for body art regulation, I request that you repeal the program entirely. Current fee levels support less than 1.5 positions to oversee more than 175 establishments, 800 body artists, and numerous guest artists and temporary events throughout the state. At this staffing level, we cannot responsibly fulfill our duties under the law to oversee this complex and ever-changing industry. I also want to note that body art regulation is part of a larger program that oversees a group of health occupations, including occupational therapists. Combining several small regulatory programs creates economies of scale that allow us to provide licensing, credentialing, and complaint investigation services at relatively low cost. By not increasing fees to sustain health occupations and body art regulation, while simultaneously transferring occupational therapy regulation to a separate board, the Senate bill threatens the viability of this entire program. Under these conditions, service levels would be reduced substantially, complaint investigations would be extremely limited, and we could not implement background checks for these health occupations as directed by current law.

Shifting the payment date for the local public health grant is also concerning because our public health system is built on a strong state-local partnership. This shift effectively forces local communities' property taxpayers to provide cash flow assistance to the state, a hardship especially for smaller community health boards with limited resources. More importantly, if this amount were never paid back, it would represent a 36-percent cut to core public health services in local communities across Minnesota.

I am disappointed to see the Senate's proposed 18-percent cut in family planning services for low-income women. Temporary Assistance for Needy Families (TANF) funding for Family Planning Special Projects has provided pre-pregnancy family planning services to low-income Minnesotans for nearly 40 years. The program reached more than 30,000 people in all corners of the state in FY 2016, reducing the risk of unintended pregnancies that otherwise result in inadequate prenatal care, fetal exposure to alcohol, tobacco, and other drugs, maternal depression, economic hardship, child development problems, abuse, and neglect. Thanks to these efforts, Minnesota's teen pregnancy rate has dropped 66 percent since the 1990s; now at a historic low. The loss of funding means shorter hours of service, fewer women obtaining services, and decreased access to highly effective, long-acting reversible contraceptives.

Minnesota is a healthy state overall because we have consistently made a commitment to improving the health of every community, even as we face significant and growing public health challenges. Governor Dayton's budget addresses these challenges in a strategic and effective way. While I appreciate that the Senate's budget proposal includes several of our top priorities, the investments in this bill remain insufficient. I thank you for your hard work this session, and I look forward to working with you collaboratively to ensure that we achieve our shared goal of protecting, maintaining, and improving the health of all Minnesotans.

Sincerely,

Edward P. Ehlinger, MD, MSPH
Commissioner

cc: Governor Mark Dayton
Senator Paul Gazelka, Majority Leader, Minnesota Senate
Senator Tom Bakk, Minority Leader, Minnesota Senate
Senator Tony Lourey, Minority Lead, Senate Health and Human Services Finance Committee
Senator Jeff Hayden, Minority Lead, Senate Human Services Reform Finance and Policy Committee

MDH
Minnesota
Department
of Health

March 29, 2017

Representative Matt Dean
Chair, Health and Human Services Finance Committee
Minnesota House of Representatives
401 State Office Building
100 Reverend Martin Luther King Jr. Blvd.

Dear Representative Dean:

Thank you for your hard work in crafting the House's 2017 Health and Human Services Omnibus Budget Bill (HF 945). I appreciate the committee's new investments in public health and agencies like the Minnesota Department of Health (MDH), where we work every day to protect and improve the health of Minnesotans.

A strong public health system emphasizes both prevention and treatment. While effective treatment is needed to address health problems when they arise, it is even preferable, from both a fiscal and health perspective, to prevent health problems from developing. Indeed, focusing on prevention is the only rational long-term strategy for turning the curve on health care costs and improving Minnesotans' quality of life.

With these complementary strategies in mind, I urge you to consider changes to HF 945 to align more with the top priorities in the Governor's budget: protecting vulnerable adults, giving at-risk children a healthy start in life, and preventing opioid use and addiction - especially in our American Indian communities.

I am grateful to see the House invest more resources in protecting vulnerable adults. As you know, MDH plays a vital role in protecting our most vulnerable adults living in nursing homes and home care settings. MDH has been working to streamline its processes, but the aging of our population and the tremendous increase in service demand far outpaces any gains possible through process improvement alone. The House proposal increases investigations of vulnerable adult abuse allegations but at just a quarter of the level requested in the Governor's revised March recommendation. Continued underfunding will have serious ramifications for vulnerable adults, their families, and the community and will prevent MDH from:

- Doubling the number of investigations completed and increasing their timeliness;
- Communicating swiftly and consistently with families about the status of complaints;
- Investigating lower-level allegations to prevent them from becoming more serious; and
- Developing more efficient case management and IT systems.

I appreciate the House's recognition of the importance of giving at-risk children of teen parents a healthy start in life by increasing the Medical Assistance (MA) reimbursement for public health nurse home visiting. For many children born to teen parents, the achievement gap starts at birth. Teen pregnancy and the need for evidence-based home visiting is a statewide challenge. Approximately 51 percent of teen births occur outside the seven-country metro area. Without funding the Governor's request to expand home visiting for all teen births in the state, we would be unable to meet the needs of our most at-risk children in many parts of Minnesota.

The House bill makes new investments related to opioid use and addiction. Minnesota must aggressively address the opioid crisis, and I encourage you to consider integrating two proposals included in the Governor's budget. The Governor's revised budget endorses a bipartisan proposal by Representative Baker (HF1440) and Senator Rosen, to create an ongoing source of funds to support opioid abuse prevention and treatment. The Governor's budget also proposed strategies specific to the opioid crisis in American Indian communities by strengthening connections between Tribal culture and a culture of health, and by reducing adverse childhood experiences for American Indian youth.

I am concerned that this bill does not fund the MDH operating adjustment and fee proposals recommended by the Governor. The cost of delivering effective services grows each year. While we make tough choices and continuously find new ways to do more with less, we cannot maintain the service levels Minnesotans expect without adjusting budgets to reflect growing demand and costs. Furthermore, at a time when states' federal funding for public health is in question, it is not prudent to short change the state's operating costs of the agency.

If we were required to manage this cost growth without a reasonable operating adjustment, we would face service cutbacks that could lead to:

- Delays in reporting kids' elevated blood levels to local agencies for follow up to identify the source and ensure the children receive appropriate care;
- Decreased ability to ensure that trauma care in rural hospitals meets minimum standards for rapid treatment of life-threatening injuries;
- Reduced capacity to establish health risk limits for groundwater contaminants posing a health risk;
- Delays in laboratory testing for rabies, measles, mumps, influenza, and Zika; and less ability to test for radiation in the environment near nuclear power plants;
- Reduced capacity to run the Safe Harbor for Youth program for victims of sexual exploitation;
- Less ability to investigate vulnerable adult maltreatment and for the licensing and certification of nursing homes and other health care facilities; and
- Less flexibility to respond to state-level priorities and emergencies, and meet our match requirements for federal funds.

I respectfully ask for you to reconsider our recommended fee increases for certain programs. This is not an attempt to raise taxes or find new revenue to balance the state's budget. The legislature explicitly chose to fund 34 of our public health programs through fees — now representing $50 million (10 percent) of our total budget. If we commit to funding public health programs through fees, then we must commit to raising those fees periodically as costs rise. By law, we are required to propose fee levels for those programs that balances their costs. Without the Governor's recommended fee changes, we cannot issue licenses and permits or investigate complaints in a timely fashion – which undermines the vital work of ensuring health care practitioners meet state qualifications and standards, preventing contamination of drinking water and blood supplies, and verifying the safety of our restaurants, pools, and lodging establishments.

This bill funds one proposal by cutting another, equally vital program. Sustaining a statewide tobacco Quitline is important. However, it is disappointing to see funding for a treatment service – even one as valuable as the Quitline - coming at the expense of local counties' funds for preventing tobacco use. The Statewide Health Improvement Partnership (SHIP) supports local schools, businesses, apartment owners/managers, farmers, community groups, senior organizations, hospitals, clinics, chambers of commerce, faith organizations and many others in creating opportunities for active living, healthy eating and tobacco-free living. SHIP supports smoke-free spaces, including public housing, among many other strategies to prevent the harmful effects and high health care costs of smoking. The proposed cut equals nearly 10 percent of the program this biennium and nearly 17 percent going forward. It is a particularly important to maintain nicotine addiction prevention efforts in light of data showing e-cigarettes are attracting young people in greater numbers.

I oppose the House bill's Radon Act repeal. Radon is a leading cause of lung cancer, and a major public health hazard in Minnesota. Nearly 40 percent of Minnesota homes have elevated levels of radon and we see about 600 lung cancer deaths per year related to radon exposure. MDH receives regular complaints from the public about improper radon testing and mitigation work. Current law adds credibility to the work done by professionals trained in proper testing and mitigation. It ensures consumers get the promised protection from Radon. A repeal will increase the risk to the public, especially in Greater Minnesota where there are typically fewer building inspection officials to provide even minimal oversight. In response to concerns from the Radon testing industry, we worked in good faith during the 2016 Session to make substantial revisions to the Radon Licensing Act that reduced fees and addressed other concerns. I urge you honor that agreement and protect Minnesotans from this serious cancer threat.

Lastly, I hope you will fund the one-time cost of implementing the network waiver appeals included in the premium subsidy bill enacted in January (Laws of 2017, chapter 2). The appeals provision was added late in a fast-paced process, so there was no opportunity to address the fiscal impact. The Governor's revised budget includes $411,000 one-time in FY 2018 for these costs.

Minnesota is overall a healthy state but we face significant and growing health challenges. Governor Dayton's budget addressed these challenges in a strategic and effective way. His proposed investments benefit the health of Minnesotans today and into the future. I appreciate that this budget bill makes some positive investments in public health, but the investments fall short of addressing Minnesota's pressing needs. I pledge to continue working collaboratively with you on a budget that addresses these needs and provides smart public health investments to protect and enhance quality of life for all Minnesotans.

Sincerely,

Edward P. Ehlinger, MD, MSPH
Commissioner
P.O. Box 64975
St. Paul, MN 55164-0975
www.health.state.mn.us

Cc: Governor Mark Dayton
Representative Joe Schomacker, Chair, Health and Human Services Reform Committee
Representative Erin Murphy, Minority Lead, Health and Human Services Finance Committee
Representative Tina Liebling, Minority Lead, Health and Human Services Reform Committee

DEPARTMENT OF HUMAN SERVICES

Minnesota Department of Human Services
Commissioner Emily Piper
P.O. Box 64998
St. Paul, Minnesota 55164-0998

March 28, 2017

Representative Matt Dean, Chair
House Health and Human Services Finance Committee
401 State Office Building
100 Rev. Dr. Martin Luther King, Jr. Boulevard
St. Paul, Minnesota 55155

Re: 2017 Health and Human Services Omnibus Bill

Dear Chair Dean:

I want to thank you for all of your efforts so far this session in the Health and Human Services Finance committee. I appreciate the work you are doing for the over 1 million Minnesotans who we serve at the Department of Human Services (DHS). As you review the 2017 Omnibus Health and Human Services (HHS) budget bill today in your committee, I want to take the opportunity to highlight my priorities for DHS and also point out some issues I see in the House budget bill.

First, I want to thank you for including the Governor's proposals for nursing facility value-based reimbursement (partial), child welfare services for sexually exploited youth, funding for Deaf and Hard of Hearing Services, expansion of Integrated Health Partnerships, White Earth Nation child welfare, Child and Adolescent Behavioral Health Services (partial), new employment services for people with disabilities, investments in mental health and implementation of the federal home health care rule. These proposals are clearly priorities for all of us and I appreciate your work to include them. Unfortunately, these are the only provisions that your bill shares with the Governor's proposed Health and Human Services budget.

One of my top priorities this session is the DHS **operating adjustments** and I am very concerned that this funding is not in the House bill. The proposed operating adjustment funding is critical to ensuring that the services we provide to the most vulnerable Minnesotans continue. Without the $44.4 million in FY2018-19 and $56.7 million in FY2020-21, we would need to reduce over 300 full-time equivalents (FTEs) across DHS, including a reduction of 210 FTEs in our Direct Care and Treatment (DCT) areas, to care for the more than 12,000 Minnesotans we serve annually. I also want to note that the other investments that are in your bill, such as the funding for CABHS and Deaf and Hard of Hearing Services, would likely be unachievable given the size of the reductions we would be forced to make as a result of not receiving the operating adjustment.

In addition to the operating adjustment, the House bill fails to include critical DCT items from the Governor's budget to ensure the safety of our clients and staff and the financial stability of these direct care programs. The first is $10.3 million in FY2018-19, and $3.6 million in FY2020-21, for the **Minnesota State Operated Community Services** program, which serves over 400 Minnesotans with developmental disabilities in 120 homes across the state. This funding, along with the operating adjustment for this area, provides long-term financial stability for this program. In addition, the **Minnesota Security Hospital staffing** investment of $22.8 million in FY2018-19, and $35.4 million in FY2020-21, is critical to DHS' need to improve safety for our clients and staff and assure quality, clinically sound care. We have worked with staff at the Minnesota Security Hospital, legislators, stakeholders, union leadership, and many others for nearly two years to bring this proposal forward for the second time and we need your support.

Last year you asked me to bring forward reforms and new ways to deploy services and optimize funding. I am happy to see a similar substance use disorder reform and the new employment services for people with disabilities included in your bill, but the Governor's budget included many reform items that I am disappointed you did not include. In Community Services, we proposed reforms to **home and community based services** and in the **housing** area to allow more people with developmental disabilities to live independently. In addition we proposed important **health care reforms**, including dental changes to ensure more children receive dental care. All of these proposals have savings for the State and rethink how we invest in services for the people we serve. I hope you will reconsider including them in your bill.

I would be remiss if I did not also point out that the Governor's budget included many federal compliance items that are not included in your bill. One key proposal is the **Child Care Assistance Program** changes to expand access to affordable child care services and increase provider rates in addition to important child care integrity measures. This proposal makes it easier for families to receive assistance, updates rates paid to child care providers, supports working parents, and ensures that children are safe. Many of these provisions are required under federal law. It is imperative that these changes move forward to achieve compliance and our goal of making the program work for Minnesota families and caregivers.

Health care is a topic that has received a great deal of attention recently at both the state and federal level. The Governor included a **MinnesotaCare buy-in** option and also a **repeal of the sunset of the provider tax** as part of his proposed budget. These proposals would help ensure the future financial stability of the health care system in Minnesota. Neither of these proposals are included in your bill and none of the federal compliance proposals are funded. Instead the House bill removes the Medical Assistance inflation from the forecast without including a mechanism to reduce spending by this amount in the language. This will impact the providers and over 1 million people who rely on Medical Assistance for their health care. As the Governor noted in his March 13, 2017, letter to House and Senate leadership, we will need information on what service or eligibility reductions you want us to make to achieve this reduction.

I appreciate the time you took to hear many bills related to personal care attendants. You heard first hand the stories of how hard it is for this group of direct care providers and the people they care for to find the services they need. But the House bill does not include the Governor's proposal for the **self-directed workforce** initiative. Our goal is to begin to address some of the workforce shortages across the state for direct care workers, who our most vulnerable citizens depend on every day. I hope you will reconsider this important investment.

The House bill did not include any funding for **child protection, foster care or permanency programs**. We worked together on the Governor's Task Force on Child Protection and I was hopeful that you would include these important investments for children and families in your bill. By not providing funding for these initiatives, children under 6 will continue to wait longer than necessary for a permanent home and we will be limited in the support we can provide to counties. The House bill also does not include any funding for **systems modernization.** I am disappointed that there is no funding to maximize the federal revenue that is available now and ensure that our systems can continue to serve the many providers, counties, tribes and individuals who depend on them.

Below, I highlight additional provisions in the House bill that are problematic for my agency and the people we serve.

- **Hospital and managed care organization outcomes program –** This House proposal requires us to issue a proposal meant to incent hospital providers to improve health outcomes, which is duplicative of our existing efforts. The bill requires DHS to maintain budget neutrality with hospital payments and there are no other mechanisms in the bill to actually create savings. We agree with improving outcomes for our clients and are working hard to do that, but the savings tracked for this proposal will not be realized.
- **Health care delivery systems pilot project –** This proposal includes over $144 million per biennium in savings for a program very similar to our Integrated Health Partnerships. This bill was never heard in committee and we do not see how the savings will be realized. The provision requiring DHS to disenroll recipients who do not verify managed care enrollment will likely result in many people losing their health care coverage. In addition, this includes a withhold of two percent of MCO capitation payments which may prohibit DHS from getting actuarially certified rates and operating a managed care program.
- **Implement eligibility verification/MA audit activities –** This proposal includes $170 million in MA savings, with an assumption of actionable audit findings. DHS has drafted a fiscal note for this bill and we articulated that no savings could be booked. This is of great concern to me.
- **Competitive bidding reform –** The House bill includes $50 million in each biennium in new savings related to unspecified competitive bidding reforms. We have worked very hard in recent years to realize savings in this area and we have been successful working together. DHS was not asked to work with you on this and we did not provide a fiscal note, and we have significant concerns about the underlying policy. We also believe there will be costs related to this based on our recent discussions with our actuaries. I will follow up with a more specific letter on this issue soon.
- **Contingent rate reduction –** This provision requires DHS to reduce MA provider rates if the $204 million in savings from competitive bidding reform, health care delivery pilots, and hospital outcomes program savings is not achieved. Our analysis of these proposals suggests that such savings will not materialize. As highlighted in the Governor's proposal regarding the **access monitoring plan,** we are required to monitor access to services when Medical Assistance rates are decreased or restructured. If Medical Assistance enrollees' access to care is adversely impacted by this decrease, Centers for Medicare and Medicaid Services (CMS) may not approve the changes in rates or may require a corrective action plan for the state to increase rates in the future, both of which could impact our federal funding related to these services. With this rate reduction, I am concerned that we will negatively impact our enrollees and providers and put in jeopardy the health care system we have all worked hard to build for Minnesotans.
- **MinnesotaCare premiums:** This proposal increases premiums on 86,000 lower income Minnesotans enrolled in MinnesotaCare. As the House is considering tax reductions for many Minnesotans, including the wealthiest people in our state, I find it very disturbing that you included a premium increase for some of the lowest income Minnesotans.
- **Managed care payment delay –** In current law, we have three shifts related to managed care payments. The House bill continues one of these payment shifts which was implemented during deficit years. Doing this now undermines the managed care purchasing strategy that we have all worked on in recent years. This proposal is of serious concern to me.
- **DHS Technology and Operations for MNSure –** The House bill removes over $40 million per biennium from the DHS budget which is currently allocated to MNsure for IT and business operations. This includes $3 million per year for navigator incentives and funding for many supports including call centers, provider resources and other services that support public program clients. This funding is needed for DHS and the counties to support our eligibility system and provide needed support to the over one million people who are on our public health care programs.
- **Establishment of Federally Facilitated Marketplace (FFM)** – This proposal would undo years of systems and operations work which resulted in a one-stop place for people in Minnesota who need health care.

This will likely cause delays and gaps in coverage for people. The fiscal tracking that is included in the House bill does not include the FTEs requested in the fiscal note for the additional work created to process FFM data, creating a shortfall for HCA administrative budget.

- **Children's Institute for Mental Disease (IMD) funding –** I very much appreciate the investment you have made in this area but I also need to point out that this proposal overall does not support maximizing federal match and also does not facilitate needed reforms, which I believe we all want to do. I look forward to working together on this in conference committee.
- **Positive supports rule exemption for child care –** This provision does not align with the terms of the Jensen Settlement Agreement and would put us at risk in meeting the requirements of the courts and the people we serve.
- **Legislative notice and approval for some waivers –** This provision will dramatically slow down the process for HCBS waiver approvals and implementation and could have many unintended consequences.

This is a long list of items that I have serious concerns about. In the health care area, I am concerned that all of the above listed reductions and changes will negatively impact our enrollees and providers and put in jeopardy the health care system we have all worked hard to build for Minnesotans. In addition, there are many proposals included in your bill that either never had a fiscal note requested or do not reflect the proper funding or savings based on the fiscal notes provided. We have had over 300 fiscal notes assigned by the House and Senate this session. When the process does not use these numbers or even request a fiscal note for key items in the bill it undermines the process and puts the numbers into question.

I have been spending time looking at the reductions made in the 2011 shutdown. That was a difficult time for our state with a significant deficit, which forced us to make many reductions to key programs. We are still trying to remedy issues caused by some of the reductions in 2011. We reduced adult mental health grants, made Child Care Assistance Program and other child care rate reductions, reduced general operating funds, and limited payment for some PCA care. We have worked together to get more funding for many of these items since 2011, and in a year when we have a large surplus in the state, I would hate to see us move backward again for the vulnerable people we serve.

Thank you for your consideration of these comments. As always, please do not hesitate to contact me or my staff for any additional information or assistance you may need in the coming weeks.

Sincerely,

Emily Piper

Emily Piper
Commissioner

cc: Governor Mark Dayton
Representative Erin Murphy, Minority Leader, House Health and Human Services Finance Committee
Lauren Gilchrist, Senior Policy Advisor, Office of the Governor

DEPARTMENT OF HUMAN SERVICES

Minnesota Department of Human Services
Commissioner Emily Piper
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March 27, 2017

Senator Michelle Benson, Chair
Senate Health and Human Services
Finance Committee
3109 Minnesota Senate Building
95 University Avenue West
St. Paul, Minnesota 55155

Senator Jim Abeler, Chair
Senate Health and Human Services
Finance Committee
3215 Minnesota Senate Building
95 University Avenue West
St. Paul, Minnesota 55155

Re: 2017 Health and Human Services Omnibus Bill

Dear Chair Benson and Chair Abeler:

I want to thank you for all of your efforts so far this session in the Health and Human Services committees. I appreciate the work you are doing for the over 1 million Minnesotans who we serve at the Department of Human Services (DHS). As you review the 2017 Omnibus Health and Human Services (HHS) budget bill today in your committee, I want to take the opportunity to highlight my priorities for DHS and also point out some issues I see in the Senate budget bill.

First, I want to thank you for including a number of items from the Governor's budget in your bill, including: expansion of return to community, phase II of the nursing facility value-based reimbursement implementation, American Indian child welfare expansion and early intervention, Child Care Assistance Program integrity, eliminating home care nursing interpreter-communicator services, Child and Adolescent Behavioral Health Services (partial), Direct Care and Treatment (DCT) security system and electronic monitoring upgrades (partial), a similar Personal Care Attendants complex care rate increase, expanding Integrated Health Partnerships, expanding Medical Assistance coverage for children in foster care, investments in mental health infrastructure, a number of health care compliance and update proposals, and a few data practices and investigation proposals. These proposals are clearly priorities for all of us and I appreciate your work to include them.

Last year you asked me to bring forward reforms and new ways to deploy services and optimize funding. I am happy to see similar substance use disorder reform, Disability Waiver Rate System reforms, and individual community living reforms included in your bill. I look forward to working on those together in conference committee, but the Governor's budget included other reform items that I am disappointed are not included in your bill. We proposed reforms to **home and community-based services** and also important **health care reforms**, including dental changes to ensure more children receive dental care. These proposals have savings for the state and rethink how we invest in services for the people we serve, and I hope you will reconsider including them in your bill.

One of my top priorities this session is the DHS **operating adjustments.** I am very concerned that, not only is this left out of your bill, you included a 7 percent reduction for Central Office and DCT operations. The proposed operating adjustment funding is critical to ensuring that the services we provide to the most vulnerable

Minnesotans continue. Without the $44.4 million in FY2018-19 and $56.7 million in FY2020-21, we would need to reduce over 300 full-time equivalents (FTEs) across DHS, including a reduction of 210 FTEs in our DCT areas, to care for the more than 12,000 Minnesotans we serve annually. Your additional reductions would impact 87 FTEs in the Central Office and up to 35 FTEs in DCT for a total reduction of over 420 FTEs. That is not sustainable and, as the Governor noted in his March 13, 2017, letter to House and Senate leadership, we will need information on what budget reductions you want us to make and programs and services we should cut to achieve this reduction. I also want to note that the other investments that are in your bill, such as the funding for Child and Adolescent Behavioral Health Service (CABHS), additional resources for Deaf and Hard of Hearing Services and the DCT security systems, would likely be unachievable given the size of the reductions we would be forced to make as a result of not receiving the operating adjustment and the additional operating cut in the Senate bill.

In addition to the operating adjustment, the Senate bill fails to include other critical DCT items from the Governor's budget to ensure the safety of our clients and staff and the financial stability of these programs. The first is $10.3 million in FY2018-19, and $3.6 million in FY2020-21, for the **Minnesota State Operated Community Services** program, which serves over 400 Minnesotans with developmental disabilities in 120 homes across the state. This funding, along with the operating adjustment for this area, provides long-term financial stability for this program. In addition, the **Minnesota Security Hospital staffing** investment of $22.8M in FY18/19, and $35.4M in FY20/21, is critical to DHS' need to improve safety for our clients and staff and assure quality, clinically sound care. We have worked with staff at Minnesota Security Hospital, stakeholders, union leadership, and many others for nearly two years to bring this proposal forward for the second time and we need your support.

I would be remiss if I did not also point out that the Governor's budget included many federal compliance items that are not included in your bill. One key proposal is the **Child Care Assistance Program** changes to expand access to affordable child care services and increase provider rates. You included important child care integrity measures, although these savings are based on full compliance with the Child Care Development Block Grant, therefore the Senate savings will be lower than reflected in your tracking. Unfortunately you neglected to include the funding to make it easier for families to receive assistance, update rates paid to child care providers, support working parents, and ensure that children are safe, many of which are required under federal law. It is imperative that these changes move forward to achieve compliance and our goal of making the program work for Minnesota families and caregivers.

Health care is a topic that has received a lot of attention recently at both the state and federal level. The Governor included a **MinnesotaCare buy-in** option and also a **repeal of the sunset of the provider tax** as part of his proposed budget. These proposals would help ensure the future financial stability of the health care system in Minnesota. Neither of these proposals are included in your bill and many federal compliance proposals are not funded. The Senate bill does include provider rate reductions for basic care services (2.3 percent in FY18 and 3 percent in FY19), which would negatively impact providers and also the people we serve. As highlighted in the Governor's proposal regarding the **access monitoring plan,** we are required to monitor access to services when Medical Assistance rates are decreased or restructured. The proposed basic care rate reductions will require additional access monitoring resources for DHS that are not funded in the current Senate bill. In addition, if Medical Assistance enrollees' access to care is adversely impacted by this decrease, Centers for Medicare and Medicaid Services (CMS) may not approve the changes in rates or may require a corrective action plan for the state to increase rates in the future, both of which could impact our federal funding related to these services.

With this rate reduction, I am concerned that we will negatively impact our enrollees and providers and put in jeopardy the health care system we have all worked hard to build for Minnesotans.

Although the Senate bill includes funding for the complex care rate for personal care attendants, it does not include the majority of the provisions from the Governor's budget for the **self-directed workforce** initiative. Our goal is to begin to address some of the workforce shortages across the state for direct care workers, who our most vulnerable citizens depend on every day. I hope you will reconsider this important investment.

The Senate bill did not include any funding for **child protection, foster care or permanency programs**. We worked together on the Governor's Task Force on Child Protection and I was hopeful that you would include these important investments for children and families in your bill. By not providing funding for these initiatives, children under 6 will continue to wait longer than necessary for a permanent home and we will be limited in the support we can provide to counties. The Senate bill also does not include any funding for **systems modernization.** I appreciate the time you spent in your committees to understand our systems issues and I am disappointed that there is no funding to maximize the federal revenue that is available now and ensure that our systems can continue to serve the many providers, counties, tribes and individuals who depend on them.

Below, I highlight additional provisions in the Senate bill that are problematic for my agency and the people we serve.

- **Delay inpatient hospital rebasing to 7-1-2021 –** We have spent the last five years working together to implement rebasing. This proposal would delay rebasing for four years and recreates the issues and problems that we only two years ago were able to resolve. It would also require DHS to monitor the impact on access, similar to the cut to basic care provider rates. Any cuts to provider rates will likely have a negative impact on provider participation under the Integrated Health Partnerships and would therefore undermine the savings assumptions related to that proposal.
- **Capitation payment delays –** In current legislation, we have three shifts related to managed care payments. With the additional payment shifts proposed by the Senate, we will likely have issues getting our rates certified by the actuaries, which is required by the federal government. If we cannot get approved rates, we will not be able to run a managed care program. This also undermines the managed care purchasing strategy that we have all worked on in recent years. This proposal is of serious concern to me.
- **MnCHOICES reduction –** This proposal will result in DHS being out of compliance with federal assurance and reporting requirements for the home and community-based services waivers and out of compliance with requirements under the Minnesota Olmstead Plan. Because DHS will not have a statewide automated process to collect, track and report on outcomes, it would mean approximately 123,000 people did not have an annual person-centered assessment and support plan that assures informed choice and accounts for transition planning for people wanting to change residential settings or gain employment.
- **Reduction to Group Residential Housing (GRH) supplementary service rates (by 5 percent and 10 percent over the two-year biennium) -** This will impact providers differently according to their rate, size, and current capacity and could result in program closure or downsizing, leading to people becoming homeless or institutionalized. I would prefer to collaborate with you on the plan Senator

Benson referenced to restructure GRH supplemental service rates in a way that better connects rates to individual needs.

- **Child Care Assistance Program (CCAP) improvements -** The Senate included language to increase rates but funding is not included in the spreadsheet. This is a forecast issue and will likely result in increases in CCAP as part of the Minnesota Family Investment Program (MFIP) in the November 2017 forecast. This will also impact Basic Sliding Fee child care by compromising the ability of counties to manage their allocations.

I have been spending time looking at the reductions made in the 2011 shutdown. That was a difficult time for our state with a significant deficit, which forced us to make many reductions to key programs. We are still trying to remedy issues caused by some of the reductions in 2011. We reduced adult mental health grants, made Child Care Assistance Program and other child care rate reductions, reduced general operating funds, and limited payment for some PCA care. We have worked together to get more funding for many of these items since 2011, and in a year when we have a large surplus in the state, I would hate to see us move backward again for the vulnerable people we serve.

In closing, I want to note that recently both of you and some of your Republican colleagues sent a letter to our three Republican congressmen. You indicated that Minnesota has been a "leader in providing access to care and containing costs." You also said that cutting the budget will not take away our responsibility to older Americans, people with disabilities, children, people needing mental health care, and the poor. I could not agree more and I feel that many of the provisions in your bill do not align with that sentiment. I hope we can spend the next part of session working together to provide critical services to the people who need them.

Thank you for your consideration of these comments. As always, please do not hesitate to contact me or my staff for any additional information or assistance you may need in the coming weeks.

Sincerely,

Emily Piper

Emily Piper
Commissioner

cc: Governor Mark Dayton
Senator Tony Lourey, Minority Leader, Senate Health and Human Services Finance Committee
Senator Jeff Hayden, Minority Leader, Senate Health and Human Services Finance Committee
Lauren Gilchrist, Senior Policy Advisor, Office of the Governor

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AN EQUAL OPPORTUNITY EMPLOYER

March 27, 2017

The Honorable Michelle Benson, Chair	The Honorable Jim Abeler, Chair
Minnesota Senate	Minnesota Senate
Minnesota Senate Building, Room 3109	Minnesota Senate Building, Room 3215
95 University Avenue West	95 University Avenue West
St. Paul, MN 55155	St. Paul, MN 55155

Dear Senator Benson and Senator Abeler,

I write to express the Commerce Department's concerns with several policy provisions contained in the Senate omnibus budget bill.

First, Commerce opposes the change pertaining to standard health insurance contract provisions for consumers contained in Article 5, section 1, and the agency urges you to remove it from the bill. Minnesota Statutes section 62A.04 subdivision 2, clause (4) requires health insurers to reinstate an insurance policy in the event that the insurer accepts late premium payment from a consumer. This is the only state law requiring health insurers to reinstate a plan if a consumer makes a late payment during a grace period and federal law in this area does not consistently apply to large group policies nor off-exchange individual and small group policies. Accordingly, this substantive change will likely result in consumers losing their health insurance coverage even if they pay their premiums.

Second, Commerce opposes Article 5, section 3, which amends Minnesota's long-standing guaranteed renewability law and, in conjunction with the uniform modification language in Article 5, section 4, adds a new process by which Minnesotans who purchase their own insurance can have those policies cancelled by their insurer and be moved into a new plan.

As background, Minnesota first passed its state guaranteed renewability law, Minnesota Statutes section 65A.65 subdivision 2, in 1992. For 25 years, this bedrock consumer protection has shielded Minnesotans from health insurance plan cancellations long before the Affordable Care Act (ACA) created a guaranteed issue environment at the national level. Even with the implementation of enhanced consumer protections under the ACA, Americans across the country found their health plans cancelled by their insurers because their states did not have the foresight to prohibit this action at a state level.

Indeed, the changes put forward in this bill will result in health insurers cancelling policies purchased by Minnesotans who chose them for the benefits they need for their health care and forcing them into different policies.

With continued uncertainty surrounding the long-term future of guaranteed issue standards at the federal level, it is imprudent to diminish protections afforded to Minnesotans under our state law at this time. Commerce urges you to remove these policy provisions from the bill.

Finally, Commerce is concerned that the capitation payment delays in Article 4, section 36 could potentially have a destabilizing effect on Minnesota insurers at a time when the agency is working with companies and the Legislature to provide stability in the state's insurance market for Minnesotans.

I hope this information is helpful. I look forward to working with you as your bill moves through the process.

Sincerely,

Mike Rothman

Mike Rothman
Commerce Commissioner

OFFICE OF HIGHER EDUCATION

The Honorable Bud Nornes, Chair
Higher Education and Career Readiness Committee
471 State Office Building
St. Paul, Minnesota 55155

The Honorable Michelle Fischbach, Chair
Higher Education Finance and Policy Committee
95 University Avenue W, Room 2113
St. Paul, Minnesota 55155

April 7, 2017

Dear Conference Chairs Nornes and Fischbach and members,

The Office of Higher Education staff and I appreciate the courtesy and positive working relationship you and your House and Senate staff have provided as you have processed your omnibus postsecondary bill to conference committee.

At a time of relative economic prosperity and a significant state budget surplus, the Governor has recommended investing $318M in postsecondary students to help enhance the economic vitality of the State and secure future potential for our students in the workforce and community.

The House and Senate bills align with the Governor in that both institutional support and investment in direct aid to Minnesota's low and middle income students are contemplated. Appropriately, both bills recognize the need for, although do not fully fund, Minnesota State to upgrade their Integrated Statewide Record System and the University to invest in NRRI and MnDRIVE research. The Senate bill wisely funds the University request for Health Training restoration. Although the investments in the need-based state grant may differ in size and contour from Governor's recommendation, both bills help low and middle income families and are headed in the right direction.

Unfortunately, the House currently provides for only 47% and the Senate only 32% of the investment recommended by the Governor. Of particular concern is the **smaller investment in need-based aid** that will lead to higher debt loads for the many students and families already struggling to pay for college. The Senate bill would fund nearly 5,000 fewer students and the House would fund 3,000 fewer students than the Governor, with recipients averaging $300 to $400 less in State Grants.

Additionally, the **lack of investment in campus support at Minnesota State and core mission support at the University of Minnesota** combined with tuition freezes will lead to degradation of educational quality for students through probable layoffs and diminished course offerings and support services. The Governor encourages the Legislature to adequately fund our public post secondary institutions and leave the setting of tuition up to the duly appointed Minnesota State Trustees and University of Minnesota Regents.

In comparison to the Governor's recommendation, the House and Senate provisions mean:

- less investment in need-based aid for middle and low income students to attend the college that best fits their aspirations and needs to prepare themselves for economic and social opportunity
  House $36M less or 58% less Senate $52M less or 84% less

- less investment in students attending and research at our University of Minnesota campuses
  House $74M less or 75% less Senate $67M less or 69% less

- less investment in students attending Minnesota State Colleges and Universities
  House $56.4M less or 37% less   Senate $96.8M less or 64% less

The House does invest more than the Governor's recommendation in Summer Academic Enrichment Program (SAEP) funding to help at-risk students successfully prepare to enter a best fit college. This is excellent!

The Senate invests even more than the Governor's recommendation in emergency assistance matching grants to campuses to help students experiencing homelessness or food insecurity, so they can finish college without dropping out. Bravo!!

Although not at the Governor's recommended level, both bills provide funds to assist more students of color to enter the teaching profession, and to support entry into shortage areas. The Senate bill supports the creation of a Sexual Violence Prevention Coordinator as a statewide resource, particularly to assist smaller campuses.

The absence of new funding for cybersecurity and data infrastructure that the Governor recommended for OHE, as he did across agencies, is a concern as our basic 1988 data system ages, creating increasing security risk for hundreds of thousands of student records.

I also hope further consideration can be given to OHE operating funds (less than 1.7% of GF). The Senate bill reallocates $350,000 to some very good programs, but puts further pressure on an operating budget strained by additional program responsibilities, inflation, and compensation increases.

Finally, it is important to remind conferees of the Governor's opposition to including policy language unrelated to the budget in your omnibus budget conference report (see page 3 of Governor's March 13th letter to Speaker Daudt and Leader Gazelka). He believes those items should travel separately in an omnibus policy bill coming out of this conference, or as separate bills, judged on their individual merits outside investment decisions. This will provide more **transparency** and **accountability** for decisions. Policy differences, unrelated to specific investments, could impede budget negotiations.

Again, thank you so much for the excellent working relationship between our OHE staff and your talented, hardworking staff. I personally appreciate the kind and thoughtful discussions OHE staff and I have had with each of you, and look forward to working with the conference as the session proceeds to a successful, timely conclusion.

Larry Pogemiller

Lawrence J. Pogemiller
Commissioner
Office of Higher Education

cc: Conferees
Representative Gene Pelowski, Senator Gregory Clausen

OFFICE OF HIGHER EDUCATION

The Honorable Bud Nornes, Chair
Higher Education and Career Readiness Committee
471 State Office Building
St. Paul, Minnesota 55155

The Honorable Michelle Fischbach, Chair
Higher Education Finance and Policy Committee
95 University Avenue W, Room 2113
St. Paul, Minnesota 55155

April 7, 2017

Dear Conference Chairs Nornes and Fischbach,

I have been asked to remind conferees of the Governor's opposition to including policy language unrelated to the budget in your omnibus budget conference report (see page 3 of Governor's March 13th letter to Speaker Daudt and Leader Gazelka). He believes those items should travel separately in an omnibus policy bill coming out of this conference, or as separate bills, judged on their individual merits outside investment decisions. This will provide more **transparency** and **accountability** for decisions. Policy differences, unrelated to specific investments, could impede budget negotiations.

Assuming the conferees choose to honor the Governor's request to separate budget items and non-budget policy, he has asked that I forward comments regarding non-budget postsecondary policy provisions before the conference.

Thank you to the House for including the non-controversial OHE policy items the Governor recommends. They are intended to clarify and provide more transparency as well as modernize regarding current regulatory processes and procedures used at OHE. Several items provide additional flexibility and ease for institutions to meet necessary requirements.

The provision in both the House and Senate restricting OHE's authority to revoke registration, degree and name approval upon court adjudication of fraud or misrepresentation is troublesome and weakens the State's ability to protect students and may lead to additional costly and unnecessary litigation.

Provisions in the House on automatic admission, mandatory student fees, central office leases, and programming appear to be micromanaging in nature.

The Governor does not think new Legislative restrictions on fetal tissue research are useful or helpful.

The Office of Higher Education staff and I appreciate the excellent working relationship you and your talented and hardworking staff have provided as you process policy items.

Larry Pogemiller

Lawrence J. Pogemiller
Commissioner
Office of Higher Education

cc: Conferees
Representative Gene Pelowski, Senator Gregory Clausen

April 7, 2017

The Honorable Pat Garofalo
Chair, House Job Growth and Energy Affordability Committee
485 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, Minnesota 55155

Dear Representative Garofalo:

On behalf of the Minnesota Department of Employment and Economic Development (DEED), I am writing to provide feedback on the House version of the Omnibus Jobs Bill heading into conference committee.

I appreciate the challenge of crafting a legislative budget, especially when faced with a difficult target. The House bill, however, inadequately funds DEED programs and includes harmful policy that will limit workforce and economic development opportunities throughout Minnesota. Governor Dayton and Lt. Governor Smith proposed an opportunity budget focused on protecting Minnesota's financial future while supporting a strong economy for everyone in our state. It is my hope that we can work together to pass a bill that reflects those priorities. Though not an exhaustive list, below you will find areas of concerns that are in the bill.

Economic Development

Inadequate Funding for Border-to-Border Broadband

From attracting and retaining businesses and talent to improving student success, robust, high-quality broadband is leveling the playing field and driving economic development in communities throughout Greater Minnesota. That is why the Governor recommended $60 million in FY18-19 for the Border-to-Border Broadband Development grant program in efforts to expand access to at least 23,000 households and businesses in Greater Minnesota.

I am concerned that the $7 million proposed in the House bill will not keep pace with identified needs and will leave Greater Minnesota without access to broadband development. This bill also eliminates funding for the Office of Broadband Development's (OBD) staffing and statutory mapping requirements. OBD's current staffing level is crucial to maintaining its ability to provide technical assistance to communities designing broadband projects and to providers looking to expand their broadband networks. If funding for the office is eliminated, the agency would not have the capacity to administer future grant awards, measure progress toward the State's goals, and monitor the $66 million in existing grants awards.

I urge you to increase funding for broadband grants to meet the Governor's level, which will expand broadband access meeting the state standards set out in law. I also encourage you to continue supporting base funding for the Office of Broadband Development, which will ensure that DEED has the necessary staff to administer the program and keep our Minnesota on track to meet our broadband goals.

Inadequate Funding for the Minnesota Investment Fund and Job Creation Fund

Competition for attracting and retaining companies and high quality jobs is fierce. When site location attributes and assets are similar, stable economic development incentives often play a key role in influencing a company's final location decision.

The Minnesota Investment Fund (MIF) and the Job Creation Fund (JCF) provide Minnesota with modest, yet accountable and effective tools to craft incentive packages based on differing business financial needs. Since 2014, MIF and JCF have invested over $70 million in business expansions, helped to create or retain over 10,600 jobs, and led to $1.96 billion in private investment throughout Minnesota. Fully funding these programs at the Governor's recommended levels, $30 million in FY18-19 for MIF and $25 million in FY18-19 for JCF, is critical to the future economic growth of communities throughout the state.

The House bill falls short of replenishing the cuts from last session, only increasing MIF funding by $1 million in FY18 and cutting JCF by $3 million in FY18-19. I strongly encourage you to fund the programs to Governor's recommended levels. I also urge you to include the Governor's policy recommendations for these programs, which will make them more accessible to businesses in Greater Minnesota, as well as businesses owned by people of color, veterans, women, and people with disabilities.

Detrimental Policy Changes to the Minnesota Investment Fund and Job Creation Fund
The Minnesota Investment Fund (MIF) is intended to spur economic growth of communities throughout the state. I share your goal of greater flexibility in the use these funds. I do not, however, support the recommendation in the House bill that allows communities to use their MIF loan repayments for purposes not related to economic development. I fully support the Governor's proposed change to allow local governments to use MIF revolving loan funds for such industries as retail development and related activities like economic development planning, in addition to the current allowable uses under law. I encourage you to follow the Governor's policy recommendations for repayment funding.

I appreciate that the House recognized language limiting JCF resources to only certain areas of the state would have had a negative impact on business expansions statewide. This restriction would have eliminated DEED's ability to invest in impactful projects, which benefit neighboring communities and often have a regional significance. This is not the intent of JCF. Thank you for taking this provision out of the House bill.

Harmful Limitations on Expending Resources
The House bill includes language limiting the amount of time DEED is able to expend funds until June 30, 2021 for three key economic development programs: MIF, Minnesota Job Skills Partnership grants, and Contamination Site Cleanup program. Historically, funds for these programs have been available until expended. This is because these programs require flexibility to finalize agreements with local governments, companies, and educational institutions.

With MIF, DEED enters into contracts lasting up to ten years in order for companies to repay MIF loans within their desired timeline. Minnesota Job Skills Partnership grants last up to three years, so a contract executed in the last year of the next biennium would extend beyond the 2021 deadline. Finally, the Contaminated Site Cleanup program awards grants twice each year, in coordination with the construction season. Without having funds available until spent, DEED would be unlikely to offer the second grant cycle because of the timing restrictions. I urge you to remove this restriction on these funds and instead make the appropriations available until expended.

Inadequate Funding for the Minnesota Trade Office
The House bill cuts funding to the Minnesota Trade Office (MTO) by 23 percent, seriously impacting MTO's ability to assist Minnesota specifically small and medium sized companies with exporting their products and services abroad and connecting foreign companies with investment opportunities in Minnesota. The bill also eliminates funding to promote

the state at domestic and global trade shows. The bill also eliminates MTO's three trade offices which are located in strategic international markets. For the first time in 13 years, Minnesota would have no foreign offices, which would greatly impact the State's presence in the global market.

I strongly urge you to fully fund the Minnesota Trade Office and ensure that Minnesota businesses continue to have access to the global marketplace.

Lack of Funding for the Angel Tax Credit
The House fails to fund the Governor's recommended $10 million in FY18 to extend the Angel Tax Credit program in tax year 2018. This program is one of DEED's primary economic development tools to support early stage, high-tech businesses, and it promotes innovation in our state. The Angel Tax Credit program has resulted in over $350 million in private investment in Minnesota startups, leveraged by the state's issuance of $84 million in tax credits to angel investors. I encourage you to continue this program at DEED at the Governor's recommended level, preferably in the Tax bill. Without additional funding, this program will sunset at the end of this year.

Workforce Development

Inadequate Funding for Vocational Rehabilitation Services
The House bill fails to fund the Governor's recommended $7 million increase for the Vocational Rehabilitation Services (VRS) program. Without this increase, VRS will be forced to close Category 1, which serves Minnesotans with the most severe disabilities. All new clients, an estimated 5,800 Minnesotans per year, would be placed on an indefinite waiting list this fall.

The gap between the unemployment rate of those with and without disabilities is substantial. According to the most recent data, the unemployment rate for Minnesotans with disabilities was 9.6 percent while the state's overall rate was 3.8 percent. The VRS program is DEED's most effective strategy to increase competitive, integrated employment for individuals living with disabilities. The program empowers Minnesotans with disabilities to find and keep jobs by providing services such as counseling, job training, and job placement.

DEED believes in working to ensure that Minnesotans with disabilities have the opportunity to live more independently, to engage in productive employment, and to participate in community life. It is critical that you fund the Governor's full recommendation to ensure that Minnesotans with disabilities are not left on the economic sidelines.

2016 Equity Investments
Minnesota has one of the largest economic disparities in the country. If the state intends to succeed, it must close the gap. I am encouraged that we agree that the Pathways to Prosperity program is one of our top strategies to connect Minnesotans, specifically those experiencing barriers to employment, with the education and training they need to enter high-growth, high-demand careers that offer family-sustaining wages. I thank the House for the additional funding and appreciate your work to streamline the program's funding sources.

The equity investments (direct appropriations and competitive grants) created in the 2016 session are also important components to our strategy to address economic disparities in our communities, specifically for people of color, veterans, youth, women, and people with disabilities. The House bill eliminates appropriations for these programs which, benefit specific target populations and allows DEED to use the Pathways to Prosperity appropriation for the equity competitive grants. That is not the intent of the Pathways to Prosperity program. I strongly encourage you to restore dedicated funding for the equity investments and remove the language from the Pathways to Prosperity program.

Competitive Grant Limitations
The House bill includes a broad prohibition against organizations receiving direct appropriations from being eligible to participate in competitive grant programs, either directly or by receiving funds from a third party. DEED is concerned this language would prohibit organizations working on substantially different issues, such as economic development and job training from accessing funding to support the whole of their work. This prohibition could potentially exclude service providers that have diversified their portfolios to match community needs. I encourage you to remove this language or refine it to ensure that these organizations can continue to access needed funding.

Agency Operations

Operating Funding Adjustment
The House bill fails to allocate the Governor's recommended operating budget adjustment of $2.01 million in FY18-19 and $2.532 million in FY20-21, which includes resources necessary to pay for increased compensation, health care, and operation costs that grow every year. This cost growth puts pressure on DEED's operating budget, which remains flat from year to year.

Interfering with Executive Branch Duties
The House bill caps full time employee counts by division and program, and reduces the number of deputies from four to one. These caps are arbitrary, void of any strategic purpose, and could impact the quality and timeliness of DEED services. The agency must adjust staffing and service levels to meet the needs of the economy. Under this bill, DEED would be unable to respond to an increased demand for services as the economy changes. A commissioner should have the authority to determine the appropriate organizational structure and staffing levels to carry out the work of the agency.

Additionally, the bill contains language that limits transfers between agencies and between departments at DEED. For example, this would prohibit DEED from appropriating funds mandated by law to the Department of Labor and Industry for the PIPELINE project, apprenticeship programs, and Helmets to Hardhats. The bill would also prohibit DEED from entering into interagency contracts with agencies that provide workforce development services to clients, such as Department of Corrections, Human Services, Transportation, and the Metropolitan Council. These partnerships allow for leveraging of services and the expertise of existing staff, which is cost effective and more efficient for clients. This language is unnecessary and hinders efficiency within state government. I strongly encourage you to remove it.

Labor Market Information
The House bill cuts funding to DEED's Labor Market Information Office (LMI), limiting DEED's ability to develop and maintain several online data products such as the Cost of Living Calculator, Career Profiles, and Graduate Employment Outcomes. This is an important resource that helps DEED customers, workers, students and their parents explore education opportunities and research career pathways. It also helps businesses better understand employment demographics, competitive wages, and economic trends. On behalf of Minnesota students, workers, and businesses I urge you to fully fund LMI.

EMPLOYMENT AND ECONOMIC DEVELOPMENT

As the work of this session continues, I hope that we can work together to improve this bill in order to ensure DEED is able to carry out its essential work in service to the people of Minnesota. I thank you for your consideration of this feedback. Please do not hesitate to contact me, Allison Jones (allison.jones@state.mn.us), or Darielle Dannen (darielle.dannen@state.mn.us) with any questions.

Regards,

Shawntera Hardy
Commissioner

CC:
Representative Tim Mahoney
Senator Jeremy Miller
Senator Bobby Joe Champion
Members of the Omnibus Jobs Bill Conference Committee

EMPLOYMENT AND ECONOMIC DEVELOPMENT

April 7, 2017

The Honorable Jeremy Miller
Chair, Senate Jobs and Economic Growth Committee
3107 Minnesota Senate Building
95 University Avenue West
St. Paul, Minnesota 55155

Dear Senator Miller:

On behalf of the Minnesota Department of Employment and Economic Development (DEED), I am writing to provide feedback on the Senate version of the Omnibus Jobs Bill heading into conference committee.

I appreciate the challenge of crafting a budget and I want to extend my gratitude to you and the members of the Senate Jobs and Economic Growth Committee for your work on the omnibus bill. As you know, Governor Dayton and Lt. Governor Smith proposed an opportunity budget focused on protecting Minnesota's financial future while supporting a strong economy for everyone in our state. Though not an exhaustive list, below you will find areas in the Senate omnibus bill that DEED either supports or has concerns.

Border-to-Border Broadband
We agree that Minnesotans deserve equitable access to employment, healthcare, and educational opportunities that high-quality broadband can provide. That is why the Governor recommends $60 million in FY18-19 for the Border-to-Border Broadband Development grant program. I am concerned that the $20 million proposed in the Senate bill will not keep pace with the needs identified in communities across the state.

I encourage you to increase funding for the Border-to-Border Broadband Development grant program next biennium to meet the Governor's level, which will expand broadband access to at least 23,000 households and businesses in Greater Minnesota and level the playing field for these communities to compete.

Restoring the Minnesota Investment Fund and Job Creation Fund
I appreciate that you recognize the importance of the Minnesota Investment Fund (MIF) and the Job Creation Fund (JCF) and their impact on job creation and business expansion throughout our state. Since 2014, MIF and JCF have invested over $70 million in business expansions, helped to create or retain over 10,600 jobs, and led to $1.96 billion in private investment throughout the state.

Funding these programs at the Governor's recommended levels, $30 million for the MIF and $25 million for the JCF in FY18-19, is critical for the future economic growth of communities throughout the state. The Senate bill partially restores funding for the MIF and JCF. I encourage you to consider funding the Governor's recommendation for the state's top business development tools and that any local MIF loan repayment funds be used for economic purposes. I am grateful you included the Governor's policy recommendations for these programs, which will make these programs more accessible to businesses in Greater Minnesota, as well as businesses owned by people of color, veterans, women, and people with disabilities.

Minnesota Department of Employment and Economic Development
First National Bank Building, E200, 332 Minnesota Street. St. Paul, Minnesota 55101
Phone 651/259-7112 mn.gov/deed

Lack of Funding for the Angel Tax Credit

The Senate does not fund the Governor's recommended $10 million in FY18 to extend the Angel Tax Credit program in tax year 2018. This program is one of DEED's primary economic development tools to support early stage, high-tech businesses, and it promotes innovation in our state. The Angel Tax Credit program has resulted in over $350 million in private investment in Minnesota startups, leveraged by the state's issuance of $84 million in tax credits to angel investors. I encourage you to continue this program at DEED at the Governor's recommended level, preferably in the Tax Bill.

Vocational Rehabilitation Services

According to most recent data, Minnesotans with disabilities experienced a 9.6 percent unemployment rate, compared to a 3.8 percent unemployment rate for Minnesota's population as a whole. The Vocational Rehabilitation Services (VRS) program serves individuals with the most significant disabilities and provides access to competitive, integrated employment opportunities. Without the Governor's recommended increase of $7 million for FY18-19, VRS will be forced to put all new clients, an estimated 5,800 Minnesotans per year, on an indefinite waiting list beginning this fall. I encourage you to consider funding the Governor's full recommendation to ensure that Minnesotans with disabilities are not left on the economic sidelines.

Pathways to Prosperity

Pathways to Prosperity is one of Minnesota's top strategies to connect Minnesotans with the education and training they need to enter high-growth, high-demand careers offering family-sustaining wages. This program targets people of color, people with disabilities, and people experiencing multiple barriers to employment, including housing instability, criminal backgrounds, lack of a high school diploma or GED, and long-term unemployment. The Governor recommends an increase of $10 million for Pathways to Prosperity in FY18-19. The Senate bill reduces funding by $1 million in FY18-19 and increases funding for the program in the out years. I strongly encourage you to consider funding the Governor's full recommendation.

2016 Equity Investments

Minnesota has one of the largest economic disparities in the country. The equity investments (direct appropriations and competitive grant programs) are important components to our strategy to eliminate economic disparities for people of color, veterans, women, youth, and people with disabilities. Unfortunately, the Senate bill cuts various competitive grants from the Equity Article of the 2016 Supplemental Bill in FY18-19, and eliminates dedicated equity funding in FY20-21. I am concerned the Senate bill cuts these investments before these organizations have had a chance to demonstrate results. I strongly encourage you to continue the funding in order to ensure that all Minnesotans have the opportunity to share in our state's prosperity.

Spending from the Workforce Development Fund

The Senate bill increases spending from the Workforce Development Fund, both new appropriations and shifts, by $18.5 million in FY18-19. While much of his new spending does support the fund's mission to expand workforce development opportunities for Minnesota workers and businesses, this level of increased spending will result in a cut to the Dislocated Worker program, which keeps our economy strong by ensuring laid off workers quickly return to the labor force. This is because the Dislocated Worker program is funded by whatever is left in the Workforce Development Fund after all other legislative appropriations are subtracted. If the Senate's level of spending from the Workforce Development Fund continues, DEED anticipates the program would exhaust its funding before the end of next fiscal year.

Operating Funding Adjustment
The Senate bill does not include the Governor's recommendation of $2.01 million in FY18-19 and $2.532 million in FY20-21 to account for inflationary cost increases impacting DEED. Each year, costs such as rent, utilities, employer-paid health care and pension contributions, FICA and Medicare, and salary and compensation increases. This cost growth puts pressure on DEED's operating budget, which remains flat from year to year.

DEED is committed to working with you and the conference committee to ensure that the budget reflects the priorities of the agency. I thank you for your consideration of this feedback. Please do not hesitate to contact me, Allison Jones (allison.jones@state.mn.us), or Darielle Dannen (darielle.dannen@state.mn.us) with any questions.

Regards,

Shawntera Hardy
Commissioner

CC:
Senator Bobby Joe Champion
Representative Pat Garofalo
Representative Tim Mahoney
Members of the Omnibus Jobs Bill Conference Committee

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St. Paul, Minnesota 55155
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MINNESOTA DEPARTMENT OF
LABOR & INDUSTRY

(651) 284-5005
1-800-342-5354

April 7, 2017

Senator Jeremy Miller
Chair, Jobs and Economic Growth Finance and Policy Committee
Room 3107, Minnesota Senate Building

Representative Pat Garofalo
Chair, Job Growth and Energy Affordability Policy and Finance Committee
485 State Office Building

RE: SF1937

Dear Senator Miller and Representative Garofalo:

The Department of Labor and Industry (DLI) is pleased there were no proposed reductions to the agency's base budget in either of the omnibus budget bills approved by your respective committees and passed on the floor of both legislative houses.

Both bills include Governor Dayton's recommendation to reduce DLI's licensing and permitting fees by $5.2 million dollars in the next biennium. Both bills also agreed with the Governor in reducing electrical inspection fees on wind and solar construction projects, providing greater protections against unscrupulous licensed residential contractors and enforcing minimum standards for buildings with assembly spaces of 200 or more in non-code enforced areas. Both bills also fully fund a new program, Helmet to Hardhats, which provides support for recruiting, assisting and retaining military veterans in registered apprenticeship programs.

However, we still have concerns about both the house and senate versions of SF1937 that I hope the conference committee will reconsider. The first is the failure to fund the Governor's request for a one-time appropriation of $1.3M for a new case management system for DLI's Labor Standards division. This division annually receives around 24,000 complaints related to child labor and wage and hour laws but has to rely on a system that was installed in the mid-1980s. A new system would enable DLI to better serve Minnesota employers and employees. A second shortcoming in both bills is not funding a requested $100,000 increase in the next biennium for the Labor Education Advancement Program (LEAP) to provide more support to women and minorities in apprenticeship programs.

As is to be expected, the two bills differ on some matters and below I indicate which bill provisions are recommended by DLI:

Recommended House Provisions

The House bill appropriates $250,000 in the next biennium to better address wage theft in our state, while the Senate provides no funding. The House approach is preferable even though it does not fully fund the Governor's request. Nevertheless, the appropriation will be of considerable assistance in helping employees who are illegally deprived of wages they are owed.

While DLI recommends that policy language generally not be included in the omnibus finance bills, DLI recommends the language in the House bill that grants DLI the authority to begin expedited rulemaking to clarify that the Minnesota Building Code does not require fire sprinklers to be installed in single and two family houses, and in two-unit townhomes. The House language is the result of negotiations between homebuilders and the fire service. Unfortunately, the Senate has included language in the Agriculture Housing omnibus bill (S.F. 780) that issues a ban on fire sprinklers in a variety of types of housing units, including multi-townhome configurations, such as attached row houses. If adopted, the Senate language would present clear safety risks to Minnesotans.

Recommended Senate Provisions

The award winning Pipeline Program is made permanent in both bills and both bodies continue the $200,000 base funding of the program. However, only the Senate bill funds this program at the level requested by the Governor by appropriating an additional $300,000 annually from the workforce development fund. DLI recommends the Senate funding approach for the Pipeline program to better help Greater Minnesota employers attract and retain employees in high-demand fields.

A new program, Youth Skills Training, has the potential of attracting young people to well-paid careers not requiring four years of college. It is authorized by both bills but is only funded in the Senate version. I urge you to adopt the Senate approach and fund this program.

The House bill includes language requiring a legislative committee's approval of any proposed administrative rule of any agency that is estimated to increase the cost of a new home by more than $1,000. This language would create delays in adopting new provisions of the Minnesota State Building codes that would allow homeowners to benefit from advancements in new technologies and materials. Often new code provisions result in reduced costs for homeowners such as savings from greater energy efficiencies. The House provision is costly, inefficient and unnecessary. We prefer the Senate approach which does not include this language.

Finally, the House bill contains a number of restrictions on agency management. By most metrics of customer responsiveness and efficiency DLI has been quite successful over the last 6 1/2 years. We have cut fees, improved services and have fewer staff. I'm afraid similar improvements will be harder to achieve under the House bill's restrictions on management. The House includes bans on internal and external transfers, internal billing and division by division limits on compensation and employee numbers. I wholeheartedly agree with the goal of containing costs in government. However, the House bill's constraints will only hamstring good management and over time may have the perverse result of actually increasing costs. The Senate bill which does not contain these restrictions is preferable.

Thank you for your time and consideration and I look forward to continuing to work with you on behalf of the citizens of our state.

Sincerely,

Ken B. Peterson
Commissioner

MINNESOTA DEPARTMENT OF COMMERCE
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AN EQUAL OPPORTUNITY EMPLOYER

April 10, 2017

The Honorable Pat Garofalo
485 State Office Building
100 Rev. Dr. Martin Luther King Jr. Boulevard
St. Paul, MN 55155

Dear Representative Garofalo,

I write to express the Commerce Department's thoughts and strong opposition to the items outlined below in your Job Growth and Energy Affordability Omnibus Budget Bill, as it was amended and heads to conference committee. I continue to hope to work with you to address these serious issues moving forward.

Your bill does not contain several critical proposals included in the Governor's Budget recommendations:

- Minnesotans expect safe and sound financial institutions and the Governor's proposal to modernize the funding is critical to ensure the continuation of efficient, low-cost Minnesota-based examinations of banks, credit unions and non-depository institutions across the State. This proposal has broad industry support including, the Independent Community Bankers of Minnesota and the Minnesota Credit Union Network.

- Minnesotans across the state rely on Weights & Measures every day to ensure accuracy and fair measurements in commercial transactions from gas pumps and fuel to grocery stores. Your bill does not include the Governor's proposal to fully fund this request so that we can replace antiquated lab equipment and infrastructure.

- Minnesota investors expect that their retirement funds and investments are handled by reputable companies that protect their money. The Governor's budget proposal would enable the Securities Section to meet its statutory examination responsibilities, deliver investor protection and industry outreach services and timely service to securities professionals that rely on Minnesota-based filings and examinations.

- Minnesotans expect great customer service and data security at government agencies. Your bill does not include the Governor's recommendation to address high-priority needs such as information technology modernization to strengthen data security, upgrade aging systems and deliver more timely, efficient customer services through investment in the Department's central services budget. Without this change item, essential day-to-day functions in the Department will be severely compromised because of inflationary cost pressures.

- Your bill does not achieve better building efficiency in Minnesota buildings that would come from the Guaranteed Energy Savings Program (GESP), nor would it save homeowners, businesses and ratepayers millions of dollars over time while creating, on average, over 1,500 jobs annually through an increase in the state's Energy Efficiency Resource Standard (EERS).

- Minnesota consumers trapped in a cycle of debt with high-cost payday loans need the protections proposed in the Governor's Budget to break free from the cycle of debt. Your bill does not close the loophole for Industrial Loan and Thrift companies nor limit borrowers to no more than four payday loans in a 12-month period.

Commerce also has very serious concerns with your bill's proposed funding reductions for the Department and policy provisions that jeopardize Minnesota's leadership and progress on consumer protection, renewable energy development and energy conservation.

Article 1 Section 7: Appropriations

The Commerce Department opposes your bill's proposed budget cuts to the agency:

- Your bill includes a $283,000 per fiscal year cut to the Administrative Services Division. This cut would eliminate key functions and system improvements that would leave Commerce more vulnerable to cyber-attacks and prevent the department from providing timely and effective consumer service to Minnesotans.

- Your bill includes a $678,000 per fiscal year cut to the Energy Division. This cut guts critical State Energy Office functions, preventing Minnesotans from having unbiased information about their energy choices in energy efficiency and renewable energy resources, and when coupled with the President's proposed budget cuts destroys an office that advocated at the PUC for over $900 million in ratepayer savings last year.

- Your bill includes a $67,000 cut in FY19 to the Telecommunications Division while adding rider amounts. This effectively doubles cuts to this Division, amplifying the harm to Minnesota consumers as a result of the Voice over Internet Protocol (VoIP) policy provision. The Department expects the VoIP provision to cost $220,000 per year over the biennium on its own. This will eliminate consumer protections that have existed for over 100 years and hits rural and vulnerable Minnesotans the hardest.

- Your bill includes a $101,000 per fiscal year cut to the Insurance Division at a time when our actuaries, analysts and policy staff are working closely with the legislature, insurers and other stakeholders to ensure a stable health insurance market for 2018 and update our regulatory oversight of property and casualty and life insurers. These cuts will also have a negative impact on the day-to-day filing approvals and solvency examination functions of the Insurance Division.

- Commerce strongly opposes the provisions in Section 7, subdivision 1, paragraphs (b) and (c) removing the Department's budget flexibility that has allowed quick, effective responses to statewide disasters and to resolve consumer complaints by allocating necessary resources where they are most critically needed. It eliminates the agency's ability to cross-train staff and provide centralized services in support of the entire agency's work for Minnesotans through the Department's Consumer Services Center. This prohibition destroys the original purpose of merging the agencies that now comprise the Commerce Department. When the reorganization occurred, your predecessors in the legislature understood the complexities of the various divisions when they created a strong and unified department under a single commissioner. Commerce protects Minnesotans on issues that cross divisions. The restrictions proposed in this bill would destroy the very efficiencies and cost savings intended for core functions

- The Commerce Department also opposes the provisions in paragraph (d) which prevent interagency agreements. We fail to understand your objective, as the restrictions included in the bill will make state government slower, less responsive and more expensive. Prohibiting billing or transfers between agencies would eliminate important government efficiencies that currently reduce costs to taxpayers.

Article 8: Commerce Policy

Sections 1, 11: Deputy Commissioner Reduction

Commerce opposes your bill's elimination of important Deputy Commissioner positions at the agency. Cutting these roles from the Department would be detrimental to all of the industries Commerce serves, as well as Minnesota consumers, without achieving any benefit whatsoever.

The Department's authority extends to over 109 different chapters of statute, more than 21 industries, and thus Commerce's Deputy Commissioners oversee work units that cover very complex, unique industries that help the economy and wellbeing of all Minnesotans.

Section 6: Pawn Transaction Period of Redemption Limitation

Commerce opposes your bill's proposal to gut the vital consumer protection which allows a redemption period of 60 days for an individual to renew or extend their contract with a pawnbroker before losing their ability to regain ownership of their property. Your bill removes that opportunity for cash-strapped Minnesotans to reclaim their property.

Article 9: Telecommunications Policy

Sections 1, 2, 3: Repeal of Telephone "VoIP" Protections

Commerce strongly opposes your bill's far-reaching repeal of vital telephone consumer protections currently required under state regulation. If this provision passes, large companies win while Minnesotans, especially those in our state who rely on telephone VoIP service, lose. They lose the right to appeal to a state regulator to seek assistance on complaints; they lose the right to remedies for inaccurate billing, service termination, failure to obtain service, timely restoration of service, fairness of rates, and "cramming" of unauthorized fees or third-party charges; and they lose on having the certainty of available 911 service when needed.

Specifically, companies providing Voice over Internet Protocol (VoIP) and Internet Protocol (IP) enabled services would be free to:

- Allow "cramming" of unauthorized fees or third-party charges on phone bills.
- Terminate service to customers without notice and without a process to ensure that customers are treated fairly.
- Raise rates without notice and lock customers into long-term contracts with high early termination fees.
- Deny service to customers in rural, tribal or high-cost areas.
- Ignore state efforts to address rural call completion problems.
- Fail to restore timely service in the event of a failure.
- Refuse to participate in Minnesota's Telephone Assistance Program (TAP) that reduces monthly bills for low-income residential customers.
- Discriminate in favor of their own affiliated companies.

Article 10: Energy Policy

Sections 2, 28, 41: Made-in-Minnesota Repeal

Commerce opposes your bill's repeal of the Made-in-Minnesota Rebate Program (MiM) and the transfer of unspent money to the Energy Fund, which will result in job losses across the state. The MiM program is a proven job creator and a key component in jump-starting the solar industry in Minnesota and transition to clean, affordable solar energy across the state. Furthermore, because payments may only be made for installations that first began generating electricity between January 1, 2014 and December 31, 2017, Minnesotans who were included in this year's lottery approvals will be required to pay for the full cost of projects already started. Commerce also opposes the repeal of the MiM Solar Thermal Rebate.

Section 3: Clean Air Act Settlement Money Legislatively Taken

Commerce opposes your bill's proposal that puts funding into jeopardy by requiring money received due to settlements related to the Clean Air Act be specifically appropriated by law. As the Pollution Control Agency has testified, the settlement tightly specifies acceptable uses and so is not a source of funding for legislative priorities. The state plan is due during a time when the Legislature will not be in session, further complicating approval of an acceptable plan and the use of this money for projects that will benefit Minnesotans and our environment.

Sections 4-7, 26-27, 42: RDF Taken for New Energy Fund

Commerce opposes your bill's attempt to create a slush fund for political pet projects by changing the Renewable Development Fund (RDF). For many years, the RDF has served as a fundamental resource to expand Minnesota's renewable energy market and support emerging energy technologies. At a time when Minnesota must continue moving forward on the renewable energy path, this proposal would derail important energy initiatives and our significant progress. The RDF's success to date has been the result of an impartial RFP process and review by a technical board, with expenditures approved by the PUC. Legislative appropriations over the years seem to have been politically motivated and often not consistent with the fund's mission to support critically needed research and development investments in renewable energy. For example, the legislature required the PUC to approve $10 million in funding to a coal gasification project that never materialized.

This provision would also abrogate the agreement between the state and a sovereign nation, the Prairie Island Indian Community, over the storage of spent nuclear fuel immediately adjacent to their tribal lands.

Sections 8, 9: PUC Commissioners Legislatively Appointed

Commerce opposes your bill's proposal to politicize the Public Utilities Commission. Making legislative appointments in the manner proposed would politicize a body that must act independently in quasi-judicial fashion to protect the public interest in the regulation of monopoly energy and telecommunications providers. The bill would also prematurely terminate current appointments that are required to be six-year terms under current law.

Section 14: State-Mandated Energy Purchases; Public Information

Commerce opposes your bill's proposal that increases rates by requiring the wholesale cost and amount of energy purchased under certain contracts to be publicly disclosed. This would in turn tend to drive up the price utilities and their ratepayers would pay to acquire such resources.

This would include, but not be limited to, contracts under the Renewable Energy Objective, the Wind Power Mandate and the Biomass Power Mandate. Price and contracted volume information is typically protected as proprietary data. Regulators commonly require utilities to secure such purchases through a competitive bidding process to assure that utility ratepayers are getting the best deal. Requiring bidders to disclose price and volume information would have a chilling effect on bidders' willingness to participate in competitive bidding solicitations.

Sections 15-20: Conservation Improvement Program by Cooperative Association or Municipality

Commerce opposes your bill's proposal to exempt small electric cooperatives and municipal utilities from the Conservation Improvement Program. Minnesotans in 12 out of 44 electric cooperatives (some 40,000 customers) and 38 out of 125 municipal utilities (another 20,000 customers) would be deprived of energy conservation services that utility customers around the state have come to rely on. These services include energy audits of customer homes and businesses, rebates and other financial incentives for energy efficient lighting and appliances, and building insulation services, among others.

Section 22: Economic Growth and Job Growth and Retention Required to be Considered During the Ratemaking Process

While economic and job growth are important goals, Commerce opposes your bill's proposal to require a utility to calculate the impact of resource options considered in its integrated resource plan filed with the PUC on utility rates, but specifies that any doubt with respect to those options must be resolved to support the economy, job growth, and job retention. In this context, this provision would place a priority on job impact rather than the paramount energy resource objective of reliability of our energy grid, which is critical to our economy and state. The type of analysis required in this provision also would require providing additional staffing expertise resources to the department and the funds appropriated to Commerce to hire experts in the area of economic and job growth. This will have the effect of driving up the costs of such proceedings to the public and all parties in these proceedings without clear evidence that PUC decision-making would be meaningfully aided for the purpose of energy resource planning.

Section 24: Certificate of Need Exemptions

Commerce opposes your bill's exemption for pipelines from the requirement to obtain a Certificate of Need from the PUC prior to construction. The Certificate of Need process assures that large energy facilities serving the state are needed and rationally planned to avoid unnecessary redundancy. Failure to conduct Certificate of Need investigations could lead to costly, duplicative facilities, putting Minnesota landowners, businesses and residents at higher risk. In this case, those risks include risks of accidental releases or explosions of toxic and combustible materials from pipeline failures or hostile actions.

Section 40: Pause on Residential PACE Task Force Funding

While Commerce supports the policy in this paragraph to pause the residential Property Assessed Clean Energy Financing (PACE) program until important consumer protections are enacted, no funding was given to the Department to carry out the work required of organizing and staffing the task force. I urge you to include the funding request of $83,000 highlighted in our fiscal note so that Commerce can facilitate the meetings and the Task Force can develop its report to the Legislature.

Section 43: Line 3 Preferred Route

Commerce opposes your bill's provision allowing Enbridge, at its sole discretion, to construct the Line 3 pipeline on their preferred route. This provision would negate the PUC Certificate of Need and Routing review and allow a private company to acquire land through eminent domain for a private purpose, ignoring tribal treaty rights, the wishes of other private landowners, oil-spill clean-up assurances, and the impact the route would have on the surrounding environment. Minnesotans expect the review of an Environmental Impact

Statement that provides an independent, scientific analysis of the proposed project and project alternatives (alternative routes and modes of delivering crude oil to market) on a project that will have significant environmental and economic impacts to Minnesota, and that allows all stakeholders to have their voices heard.

Section 44: Repealers

Commerce opposes your bill's repeal of the agency's subpoena power for Energy Planning & Energy Conservation. This removes important information collection powers during energy related supply emergencies, determinations of the adequacy of electric transmission lines serving the state, and emergency energy assistance programs. While energy providers have typically provided such information voluntarily, eliminating this subpoena authority severely limits the state's ability to respond to events like the propane emergency the state experienced during the recent polar vortex winter.

Article 11: "Miscellaneous"

Section 12: Agency Activity and Expenditure Reports

Commerce opposes your bill's proposal requiring that the Commissioners of DEED, DLI, Commerce, and the PUC, submit a report to the chairs and ranking minority members of the House of Representatives and Senate committees and divisions with jurisdiction over their budget appropriations by October 15, 2018. While the agency has no objection to legislative reporting generally, much of the information contained in this report is duplicative or overly broad. This unfunded mandate will require an extraordinary amount of staff time on paperwork that would be much better spent helping Minnesota's consumers.

Thank you for the opportunity to present the Commerce Department's budget requests and comments on your Job Growth and Energy Affordability Omnibus Bill. I hope this information is helpful and you will take these serious considerations on unacceptable items into account to amend the bill as it moves forward.

Sincerely,

Mike Rothman

Mike Rothman
Commerce Commissioner

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April 10, 2017

The Honorable Jeremy Miller
3107 Minnesota Senate Building
95 University Avenue W
Saint Paul, MN 55155

Dear Senator Miller:

I write to express the Commerce Department's thoughts and concerns on SF 1937.

At the outset, I appreciate the work of Senator Dahms and Senator Osmek in developing the Commerce and Energy budget legislation, and that some of the Governor's Budget recommendations have been included in this proposal, but many have not been. We, therefore, request your careful consideration to include them moving forward. We also have serious concerns and oppose the policy items discussed below.

As to the budget items included, thank you for advancing the Governor's Budget proposal to change the Financial Institutions Division's funding. This proposal is critical, as it will help provide cost-effective, Minnesota-based examinations of banks, credit unions and non-depository institutions across the State. This proposal is supported by the Independent Community Bankers of Minnesota and the Minnesota Credit Union Network.

Second, even though I encourage the committee to still consider the Governor's Budget recommendation to increase the Commerce Fraud Bureau assessment to properly fund the Bureau, the Department appreciates the $1.3 Million transfer from the Auto Theft Prevention account to the Fraud Bureau. This additional funding will allow Commerce to help stop more white-collar criminal fraud in Minnesota, and to respond more quickly to reports of suspected fraud from insurance companies, law enforcement and the public.

Third, we appreciate that this bill advances a small increase for the Weights & Measures Division, although not at the level recommended by the Governor's budget. Because I strongly believe it is imperative to fully fund this request to help ensure accuracy and fair measurements in commercial transactions from gas pumps and fuel to grocery stores, I urge you to move to the level of funding in the Governor's Budget so that we can replace antiquated lab equipment and infrastructure.

Fourth, although not a full repeal of the sunset as recommended by the Governor's Supplemental Budget, we appreciate that this proposal includes the Department's Utility Grid Assessment Extension request with an extension until June 30, 2021. The assessment is currently set to sunset on June 30, 2017. To ensure the reliability of the state's electric system into the future, I would still urge you to move to a full repeal of the sunset.

As to the Governor's Budget items not included, I urge you to add the following as this bill moves forward:

- Enhance important resources for the Securities Section to enable it to meet its statutory examination responsibilities, deliver investor protection and industry outreach services and more timely serve securities professionals that rely on Minnesota-based filings and examinations. The mission of the Section is to help provide responsible capital formation, oversight of securities industry members, and investor protection;

- Invest in the Department's central services budget to address high-priority needs such as information technology modernization to strengthen data security, upgrade aging systems and deliver more timely, efficient customer services. Without this change item, essential day-to-day functions in the Department will be severely compromised because of inflationary cost pressures;

- Protect Minnesota consumers from getting trapped in a cycle of debt with high-cost payday loans by adding the Governor's Budget proposal to close the loophole for Industrial Loan and Thrift companies and limiting borrowers to no more than four payday loans in a 12-month period;

- Provide funding to achieve better building efficiency in Minnesota's public buildings through the Guaranteed Energy Savings Program (GESP);

- Allocate funding for Healthy AIR (Asbestos Insulation Remediation) to provide grants to low-income Minnesotans to remove carcinogenic vermiculite from their homes; and

- Increase savings to homeowners, businesses and ratepayers while creating, on average, over 1,500 jobs annually, by enhancing Minnesota's Energy Efficiency Resource Standard (EERS).

Moreover, Commerce has substantial concerns with some of the energy policy provisions that will harm Minnesota's consumers and ratepayers.

Policy Concerns

First, Commerce strongly opposes the bill's far-reaching repeal of vital telephone consumer protections currently required under state regulation. If this provision passes, large companies win while Minnesotans, especially those in our state who rely on telephone VoIP service, lose. They lose the right to appeal to a state regulatory body to seek assistance on complaints; they lose the right to get remedies for inaccurate billing, service termination, failure to obtain service, timely restoration of service, fairness of rates, and "cramming" of unauthorized fees or third-party charges; they lose on having the certainty of available 911 service when needed. Specifically, companies providing Voice over Internet Protocol (VoIP) and Internet Protocol (IP) enabled services would be free to:

- Allow "cramming" of unauthorized fees or third-party charges on phone bills.
- Terminate service to customers without notice and without a process to ensure that customers are treated fairly.
- Raise rates without notice and lock customers into long-term contracts with high early termination fees.
- Deny service to customers in rural, tribal or high-cost areas.
- Ignore state efforts to address rural call completion problems.
- Fail to restore timely service in the event of a failure.
- Refuse to participate in Minnesota's Telephone Assistance Program (TAP) that reduces monthly bills for low-income residential customers.
- Discriminate in favor of their own affiliated companies.

Second, Commerce opposes the provision that eliminates the ability of a utility customer to go to a neutral third party with their complaints. The Governor has already vetoed this proposal relating to the regulation of municipal electric utilities and rural electric cooperatives by the Public Utilities Commission (PUC). As the Governor stated, "Eliminating the PUC's role would remove critical consumer protection for customers…The effect of this proposed legislation would negatively impact Minnesota's progress toward more renewable and efficient energy. All Minnesota customers – from family farmers to large businesses – should be able to invest in technology to produce clean and efficient energy with the assurance that the PUC is available to provide consumer protection."

Thank you for the opportunity to present the Commerce Department's budget requests. I hope this information is helpful and you will take these considerations into account as the bill moves forward.

Sincerely,

Mike Rothman

Mike Rothman
Commerce Commissioner

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Equal Opportunity Housing and Equal Opportunity Employment

April 7, 2017

The Honorable Pat Garofalo, Chair
Job Growth and Energy Affordability Committee
Minnesota Housing of Representatives

The Honorable Tim Mahoney, DFL Lead
Job Growth and Energy Affordability Committee
Minnesota Housing of Representatives

The Honorable Karen Clark, DFL Lead, Housing
Job Growth and Energy Affordability Committee
Minnesota House of Representatives

RE: HF2209/SF1937, Omnibus Job Growth and Energy Affordability Finance & Policy Bill

Dear Legislators,

Yesterday the House passed SF 1937, the Omnibus Job Growth and Energy Affordability Finance & Policy Bill. I want to bring to your attention several items in the bill about which the Minnesota Housing Finance Agency has concerns. We have shared these concerns throughout the committee process.

Challenge Program Funding

This bill completely eliminates funding for the Economic Development and Housing Challenge (Challenge) program in FY2019. The Challenge program finances housing development - both rental and homeownership - across the state. In 2016, nearly 600 units of housing were financed with the Challenge program statewide. In the last two years, nearly 90 percent of Challenge funds for rental were used in Greater Minnesota to address workforce housing needs.

The Challenge program is our most flexible program, designed to meet a wide range of housing needs identified by local communities. It is also our only state appropriated program that can support both the development of housing for single family homeownership and the development of new rental properties. Eliminating the Challenge program for an entire year will significantly reduce the amount of housing development resources available to communities across the state, both in the metro area and in Greater Minnesota, creating a backlog of projects that are ready to go and creating a delay in when housing will become available to the local workforce.

Workforce Housing Grant Program

The bill moves a Workforce Housing Grant Program that is currently administered by the Department of Employment and Economic Development (DEED) to Minnesota Housing. It funds the program for one year at $4,000,000 and does not fund it in FY2019, further limiting the state's ability to meet local housing development needs in FY 2019.

We understand that communities are seeking a range of workforce housing options. Minnesota Housing and DEED have heard these concerns from communities and have collaborated to meet their needs. Over the past four years, our agencies have financed more than 1,200 units of workforce housing in Greater Minnesota across the state.

We appreciate that the committee amended the language to allow funding to be awarded in the form of either grants or deferred loans. Deferred loans act much like grants in that the money is awarded with no interest and no monthly payments. A deferred loan allows the state to ensure that the project continues to operate for its intended use and that it remains as an asset to the community for years to come.

We also recommend removing the language that prohibits properties funded by this program from using other financial assistance that has requirements for residents to meet income limits. This limitation currently makes it impossible to combine funds from the Workforce Housing grant program with most other housing finance resources. Removing this language would give communities the option, but not the requirement, to create mixed-income properties. In previous years, because of this prohibition, DEED and Minnesota Housing have funded developments right across the street from one another in the same community. We think it makes more sense to allow a community to have the option to develop a project that includes a mix of income-restricted and non-income restricted units.

Governor's Initiatives

In his budget, the Governor included $10 million over two years for targeted initiatives to address opportunities in homeownership and to provide housing resources to address the issue that more than 9,000 children are identified as homeless or highly mobile across the state. While we appreciate the resources to fund the CLASS Act that are included in this bill, we're concerned that those resources come from other resources for affordable housing development.

Tax-Exempt Bonds Policy Provision

The bill includes policy language that modifies the priorities and process for how the state administers federal tax-exempt bonds for housing. We understand the goal of wanting to create additional rental housing, but this bill proposes to do so without adding new resources. Rather, it eliminates resources for city and county first-time homebuyer programs in favor of rental housing, often with the highest allowable rents for projects in metro communities. We appreciate that access to resources for homebuyer programs is restored after two years, but we are concerned about the reduction in resources for homebuyers.

As this federal resource has recently become scarce, we should look for opportunities to: ensure the resource works in Greater Minnesota; continues to be available for city and county first-time homebuyer programs; and provides rental housing that is affordable for longer periods and serves lower income individuals and families.

We are committed to working on the policy language, but think that process should occur outside of the budget process.

Limits on Operating Budget and FTEs

We are concerned about a provision that caps the number of FTEs and the operating budget for Minnesota Housing at FY2017 levels through FY2021. Minnesota Housing does not use any state appropriations for operating expenses. Agency operations are funded by earnings from our lending and investment activities. General Fund appropriations make up only 7-10 percent (7-10 %) of our overall agency budget. One hundred percent of our state appropriations go into programs. We consistently operate on a lean budget and are very conscience of ensuring that our operating costs are low as a percentage of the overall assistance we provide. In FY2016, our operating expenses were only 2.82 percent (2.82%) of assistance provided. We submit an Operating Cost report to the Legislature each year.

It is important that we have flexibility to respond to market conditions. We want to be sure we are able to respond to challenges and to create more affordable housing opportunities for Minnesotans as market conditions change.

Reporting Requirement

The bill includes a requirement that all agencies under the committee's jurisdiction submit a report that shows the number of employees in each division and a job description for each employee, a detailed list of sources of revenue, how much passes through as grants and the cost of grant programs, a detailed description of costs and statutory authority for all expenditures. Minnesota Housing currently submits several reports to the Legislature each year including:

- an operating cost report that shows the number of FTEs and salaries and other operating costs for the agency, and also shows operating costs as a percentage of housing program dollars used by Minnesotans;
- an annual program assessment that shows the sources of funds for the agency, the amount of funds spent in each program, geographic areas served by programs, and the number of households served; and
- our Affordable Housing Plan, the agency's business plan for the year, which outlines all sources of program funds and planned uses.

We believe the information we currently submit, including information provided in the state's budget system, provides a detailed picture of the agency's activities.

We hope you find this information helpful and we look forward to working with you as the budget process continues. Please do not hesitate to contact me, Ryan Baumtrog (ryan.baumtrog@state.mn.us) or Katie Topinka (katie.topinka@state.mn.us) with any questions.

Sincerely,

Mary Tingerthal
Commissioner

Minnesota Housing Finance Agency

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Equal Opportunity Housing and Equal Opportunity Employment

April 7, 2017

The Honorable Torrey Westrom, Chair
Agriculture, Rural Development and Housing
Finance Committee
Minnesota Senate

The Honorable Kari Dzeidzic, Ranking Member
Agriculture, Rural Development and Housing
Finance Committee
Minnesota Senate

RE: SF 780, Omnibus Agriculture & Housing Finance Bill

Dear Legislators,

Last week the Senate passed SF 780, the Omnibus Agriculture and Housing Finance Bill. We appreciate the Agriculture, Rural Development and Housing Finance Committee's work in putting the bill together and the opportunities we had to present to the committee this session.

Challenge Program/Workforce Housing

We appreciate that the bill fully funds the Economic Development and Housing Challenge (Challenge) program. The Challenge program finances housing development - both rental and homeownership - across the state. In 2016, nearly 600 units of housing were financed with the Challenge program statewide. In the last two years, nearly 90 percent of Challenge funds for rental were used in Greater Minnesota to address workforce housing needs.

Governor's Initiatives

Unfortunately the bill does not fund the Governor's budget initiatives. The Governor included $10 million over two years for targeted initiatives to address opportunities in homeownership and to provide housing resources to address the issue that more than 9,000 children are identified as homeless or highly mobile across the state. The Governor's initiatives include:

- $8 million for Homework Starts with Home – an initiative to provide rental assistance to families with school-aged children
- $1.5 million for downpayment assistance for first time homebuyers
- $500,000 for Homeownership Capacity – intensive homebuyer and financial literacy training for first time homebuyers

We appreciate that the downpayment assistance program is funded at $500,000 per year in the out years, but we hope that the Governor's initiatives will be fully funded this biennium as the budget process moves forward.

Budget Cuts

While we understand that the committee did not have a target, we are concerned about cuts to the Rental Rehabilitation Deferred Loan Program. We appreciate that the cuts are small and targeted to workforce housing development. The bill also cuts a direct appropriation to Build Wealth Minnesota of $500,000 per year. This appropriation was part of last year's Equity package and is aimed at reducing the gap in homeownership between white households and households of color. This cut is used to fund manufactured home park infrastructure. While we recognize that this is also a critical affordable housing need, we hope that as budget negotiations move forward cuts can be restored.

We hope you find this information helpful and we look forward to working with you as the budget process continues. Please do not hesitate to contact me, Ryan Baumtrog (ryan.baumtrog@state.mn.us) or Katie Topinka (katie.topinka@state.mn.us) with any questions.

Sincerely,

Mary Tingerthal
Commissioner

BUREAU OF MEDIATION SERVICES

April 5, 2017

Chair Senator Jeremy Miller
3107 Minnesota Senate Building
St. Paul, MN 55155

Vice-Chair Senator Paul Anderson
2103 Minnesota Senate Building
St. Paul, MN 55155

Dear Senators Miller and Anderson:

I am writing to express concerns with SF1937. In its current form, SF1937 rejects each of Governor Dayton's supplemental budget proposals related to BMS. As we have discussed previously, the statutory mission of the Bureau of Mediation Services (BMS) is to promote stable and constructive labor management relations and the use of alternative dispute resolution in areas other than labor-management. Governor Dayton's budget proposals are critical to accomplishing this mission.

The Governor's BMS budget / SF942 has the following elements:

BMS Operating Adjustment. Each year, compensation costs rise due to wage growth and changes in employer-paid contributions for insurance, FICA, Medicare, retirement, and other factors. Absorbing this increase in compensation costs within existing agency base appropriations results in reduced capacity to deliver service. Other costs, such as in-state travel, are essential for continued agency service delivery for Minnesotans and the associated costs continue to rise. Lack of an operating increase will result in a reduction of the number of mediation meetings, hearings and other direct services BMS can provide. The Governor recommends increasing agency operating budgets to maintain operations at current service levels. For the Bureau of Mediation Services, this funding includes employee wage and benefit costs, employer-paid pension costs, and other operating cost increases.

OCDR Community Mediation Grant Program. Minnesota citizens are currently challenged by facing people with differing views on key issues and changing communities, but also by a lack of skills and tools necessary to engage in discussions that lead to conflict resolution. By increasing the awareness and use of effective community-based and volunteer-delivered conflict resolution tools, Minnesotans will have more opportunities to manage personal, neighbor, community, cultural, and other differences and disputes. The Governor's proposed funding will enable nonprofit community dispute resolution programs (CDRP's) to expand their existing conflict resolution services statewide to underserved communities in both greater Minnesota and to culturally specific groups in metropolitan areas by developing a coordinated infrastructure among the CDRPs to leverage existing resources and technology. CDRP services are provided by community volunteers at low or no cost. CDRPs currently receive a share of the $160,000 from the Executive Branch and $100,000 from the Courts every year through a grant program that is jointly administered. The Governor's proposal of an additional $250,000 per year will allow CDRPs to leverage additional non-state funding from a variety of sources, including foundation grants, individual giving, volunteer service provision, etc.

1380 Energy Lane, Suite 2, St. Paul, MN 55108
651-649-5421 | FAX: 651-643-3013 | TTD: 1-800-627-3529 | mn.gov/bms

PERB Base Appropriation.

Beginning July 1, 2017, the PERB will receive, investigate and resolve unfair labor practice charges for all public employers and their employees across the State of Minnesota. Funding in FY 2015 through FY 2017 was appropriated to BMS for purposes of assisting the PERB in the amount of $125,000 per year from the general fund. Beginning in FY 2018, PERB will begin implementation, utilizing the rules it has adopted governing the procedures of investigations, hearings and appeals of unfair labor practices. Beginning in FY 2018 and each year thereafter, the $125,000 base appropriation will be increased to $525,000 and moved from BMS to PERB, in order to support PERB in its first year as an operational agency and each year thereafter.

I strongly urge you to include these important proposals that will strengthen the State of Minnesota that are included in the Governor's BMS budget proposal.

Respectfully,

Josh Tilsen
Commissioner
Minnesota Bureau of Mediation Services

cc:
Senators Bobby Joe Champion, Rich Draheim, Michael Goggin, Karin Housley, Jason Isaacson, Matt Little, Paul Utke, Erik Simonson

BUREAU OF MEDIATION SERVICES

March 27, 2017

Chair Pat Garofalo
485 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155

Vice Chair Jim Newberger
371 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155

Dear Representatives Garofalo and Newberger:

I am writing to express concerns with HF2209. In its current form HF2209 not only rejects each of Governor Dayton's supplemental budget proposals related to BMS, it eliminates all funding for the Office of Collaboration and Dispute Resolution (OCDR) and the Public Employment Labor Relations Board (PERB). Additionally, the HF2209 proposal unnecessarily restricts transfers of money and billing both within and across state agencies. HF2209 also caps spending on salaries and limits FTE allocations. As we have discussed previously, the statutory mission of the Bureau of Mediation Services (BMS) is to promote stable and constructive labor management relations and the use of alternative dispute resolution in areas other than labor-management. Governor Dayton's budget proposals are critical to accomplishing this mission.

The Governor's BMS budget / HF1081 has the following elements:

BMS Operating Adjustment. Each year, compensation costs rise due to wage growth and changes in employer-paid contributions for insurance, FICA, Medicare, retirement, and other factors. Absorbing this increase in compensation costs within existing agency base appropriations results in reduced capacity to deliver service. Other costs, such as in-state travel, are essential for continued agency service delivery for Minnesotans and the associated costs continue to rise. Lack of an operating increase will result in a reduction of the number of mediation meetings, hearings and other direct services BMS can provide. The Governor recommends increasing agency operating budgets to maintain operations at current service levels. For the Bureau of Mediation Services, this funding includes employee wage and benefit costs, employer-paid pension costs, and other operating cost increases.

OCDR Community Mediation Grant Program. Minnesota citizens are currently challenged by facing people with differing views on key issues and changing communities, but also by a lack of skills and tools necessary to engage in discussions that lead to conflict resolution. By increasing the awareness and use of effective community-based and volunteer-delivered conflict resolution tools, Minnesotans will have more opportunities to manage personal, neighbor, community, cultural, and other differences and disputes. The Governor's proposed funding will enable nonprofit community dispute resolution programs (CDRP's) to expand their existing conflict resolution services statewide to underserved communities in both greater Minnesota and to culturally specific groups in metropolitan areas by developing a coordinated infrastructure among the CDRPs to leverage existing resources and technology. CDRP services are provided by community volunteers at low or no cost. CDRPs currently receive a share of the $160,000 from the Executive Branch and $100,000 from the Courts every year through a grant program that is jointly administered. Requesting an additional $250,000 will allow CDRPs to leverage additional non-state funding from a variety of sources, including foundation grants, individual giving, volunteer service provision, etc.

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PERB Base Appropriation.

Beginning July 1, 2017, the PERB will receive, investigate and resolve unfair labor practice charges for all public employers and their employees across the State of Minnesota. Funding in FY 2015 through FY 2017 was appropriated to BMS for purposes of assisting the PERB in the amount of $125,000 per year from the general fund. Beginning in FY 2018, PERB will begin implementation, utilizing the rules it has adopted governing the procedures of investigations, hearings and appeals of unfair labor practices. Beginning in FY 2018 and each year thereafter, the $125,000 base appropriation will be increased to $525,000 and moved from BMS to PERB, in order to support PERB in its first year as an operational agency and each year thereafter.

HF2209 has the following negative impacts to BMS:

1. **Elimination of OCDR Funding.** As I have stated before, OCDR represents an important opportunity for Minnesota to take advantage of modern problem solving dispute resolution tools and models to address complex and controversial matters of public concern. Such is the mission of OCDR. Since its establishment as a program of BMS in 2013, OCDR has served as a resource and a catalyst in a number of important, high profile matters affecting Minnesotans. Among the most important is the ongoing strengthening of Minnesota's Community Mediation Agencies. Community Mediation Minnesota programs utilize highly-trained volunteer mediators who live in the communities they serve. Services are provided at low or no charge to users, and save money. Types of cases include:
    - Conciliation Court Mediation
    - Neighborhood Disputes
    - Landlord-Tenant Issues
    - Family Law Disputes
    - Restorative Justice
    - Conflict Resolution Skill Building Workshops
    - Problem Solving and Facilitation
    - Business-Consumer
    - Community Policing: Police Officer Training
    - Victim-Offender Resolutions

    OCDR's delivery of collaborative solutions and problem solving services in the area of public policy and other matters of public concern has become recognized as a valuable public resource in a few short years. Examples of some of these projects are:
    - Child Custody Dialogue
    - City of North Branch
    - Governor's Water Summit
    - North St. Paul City Council
    - North Branch City Council
    - St. Paul Schools
    - Marshall-Lyon Library – Plum Creek Regional Library
    - MDH and Minnesota Community Measurement
    - City of Lake Elmo
    - Capitol Preservation Art Subcommittee
    - Metropolitan Council Wastewater Treatment Division
    - Mn State Hospital St. Peter –Patient-Centered Care & Worker Safety
    - MnSCU Charting the Future Initiative

2. **Elimination of PERB Funding.**
    - Elimination of the PERB just as it prepares to launch its services will cause parties to continue seeking resolution through the more expensive court system.

3. **Restictions on hiring, salary, transfers of money, and billing**.
   - Limits cost effective or cost savings cooperation between agencies
   - Does not allow for FTE increases funded by grants, federal dollars or fees
   - Does not statutorily provide for OCDR or PERB which allows for inconsistent prioritization of the offices.
   - Capping aggregate salaries may conflict with labor agreements

I strongly urge you to reconsider the financial cuts and operating restrictions proposed in HF2209 and rather, include important proposals that will strengthen the State of Minnesota that are included in the Governor's BMS budget proposal.

Respectfully,

Josh Tilsen
Commissioner
Minnesota Bureau of Mediation Services.

cc:
Karen Clark, Tim Mahoney, Jean Wagenius, Paul Anderson, Cal Bahr, Dave Baker, Jim Davnie, Dan Fabian, Jeff Howe, Sandy Layman, Erin Maye Quade, Jason Metsa, Rena Moran, Ann Neu, Marion O'Neill, Jason Rarick, Peggy Scott, Mike Sundin, Paul Thissen, Bob Vogel, Nolan West

Minnesota Department of Education

April 6, 2017

Senator Carla Nelson and Representative Jenifer Loon, Co-Chairs
Conference Committee on HF 890/SF 718
537 State Office Building
St. Paul, MN 55155

Dear Senator Nelson and Representative Loon,

I am writing to you in regard to the House E-12 omnibus bill. Please note that this letter has been updated from my letter of March 31. In my years as commissioner, I don't think I have seen a bill that has so much potential for harm to our students, schools and hardworking teachers. Given the negative impacts to your districts, I feel an obligation to point out just how bad the funding and policy provisions are in this bill and how they undermine the bipartisan work we've done together.

The House bill claims to increase the formula by 1.25 percent each year of the biennium. However, if you look closely, those increases are not real. That 1.25 percent relies on shifts from delinking compensatory revenue and Early Childhood Family Education from the general education formula, and makes cuts to critical programs that serve underrepresented children through voluntary pre-K, Pathway II early learning scholarships, Adult Basic Education, the Regional Centers of Excellence and more.

After seeing the deep cuts to many districts, the bill was hastily amended to delay some of the fiscal impact of the elimination of existing voluntary pre-K funds to districts. However, the projections still did not show the impact of removing Pathway II early learning scholarships, which districts have had for years. Even with the addition of this amendment, some districts will still see cuts. This not only short changes the already-insufficient formula increase to all districts, it also eliminates high-quality pre-K next school year.

This proposal pushes 3,300 4-year-olds out of pre-K programs that our schools have invested in, and forces thousands of future families to pay out of pocket for high-quality preschool. It also ignores the 13,800 children waiting for voluntary pre-K that would be funded under the governor's budget. If we value parent choice, it would make more sense to support a program parents are demanding and provide pre-K in over 269 districts and charters in every county of this state. Instead this bill over-funds a scholarship program that currently has a waiting list of 821 children that would take only $12 million to cover for the biennium.

The House bill establishes a new Office of Early Education, creating a new level of bureaucracy to perform work already being done by others, without any thoughtful discussion or input from stakeholders on the impacts of such a change. This is a decision that should be carefully considered for its broad implications on numerous important programs.

American Indian kids attending our tribal schools deserve an equal education. Thanks to a bipartisan effort two years ago, they currently receive the same amount for their education on average as any other Minnesota student. HF 890 rolls that progress back, delivering a significant blow to our efforts to improve outcomes for American Indian kids, including their graduation rates which are currently some of the lowest in the nation. These kids deserve our attention.

The House bill eliminates the requirement for high schools to provide the ACT to students, and establishes a system where students must request reimbursements for the test. This is a serious equity issue, as it leaves students and families to figure out how to pay for the test by themselves. Many of these kids may be first generation college attendees, and a barrier such as this will mean that some students will not even try. We don't make students pay upfront and seek reimbursement for Advanced Placement, International Baccalaureate tests, or for Postsecondary Enrollment Option classes. Why create that barrier for the ACT?

The House bill leaves out crucial support for many essential services. There is zero funding to increase the amount of student support staff in schools, when we know Minnesota has one of the worst school counselor-to-student ratios in the country.

Additionally, the bill provides no change in funding for special education services to 15 percent of our students, as our schools struggle to cover the increasing costs that are unfunded by the federal government.

The House bill undermines state capacity to support schools and families through cuts to the Minnesota Department of Education. The refusal to include the governor's recommendation to maintain MDE's current capacity (due to rising employee and IT costs)—on top of the bill's cuts to the agency—will result in a 13.5 percent reduction to the department. This will result in the elimination of 23 full time employees, including the School Safety Technical Assistance Center which helped more than 200 families address incidents of bullying last year. This bill also cuts the Regional Centers of Excellence whose staff work with leadership teams at 118 low-performing schools, providing crucial tools to improve academic achievement. These cuts will have real and devastating impacts.

Additionally, the bill unnecessarily tampers with the department's work as it pertains to federal law. The proposal first undercuts the department's ability to implement Minnesota's state plan for the Every Student Succeeds Act. The bill would require legislative approval before implementing our state ESSA plan. However, states are required to submit the plan to the U.S. Department of Education no later than September 18, and by law the U.S. Department of Education must inform states within 120 days if the plan is approved. If approved, the U.S. Department of Education is expecting states to implement the plan as submitted in order to receive the federal funds tied to ESSA. If the Minnesota Legislature does not approve the plan in a timely manner, it jeopardizes over $230 million in federal funds that goes to serve students from low-income families.

Furthermore, in dictating what the ESSA plan should look like, the amendment mandates which data would be reported in our state plan. However, some of these data are not even currently available. This represents an unfunded mandate to schools to collect. Adopted in committee with no public testimony, this provision completely undermines the stakeholder engagement central to the federal law, and is inconsistent with input we heard from stakeholders across Minnesota in more than 150 meetings over the course of the past year. Finally, I oppose the proposal directing the department to spend up to $200,000 of Title II funds to support the Minnesota Principals Academy. The state should not be directing the flow of federal dollars.

Your bill proposes to close the Perpich Center for Arts Education and relies on the conveyance of Crosswinds Arts and Science School in order to raise funds. The governor has recently worked to reconstitute the Perpich Center's board and feels strongly that the school should have the time and opportunity to address the Office of the Legislative Auditor's findings. We are also concerned that the conveyance of the Crosswinds school at any cost is in conflict with previous practice. You are now asking for additional state funds to pay for a building the state already owns.

While I am appreciative that the House has adopted so many of the governor's policy proposals, I would like to reiterate the governor's strong stance that finance bills be free of policy. However, I will express concerns I have regarding several items. I find it troubling that when we should be focusing on supporting teachers, the House aims to reduce the bargaining positions that teachers have when it comes to negotiating layoffs. I also have serious concerns about changes to alternative teacher preparation programs. We should not eliminate the requirements that nonprofits seeking to start programs have to partner with higher education institutions, the minimum entry qualifications for candidates, and student teaching.

I am saddened for the message HF 890 sends to our kids, our families and our teachers—a message saying that at a time in which the state has a $1.6 billion surplus it is preferable to cut resources for schools and students. I encourage you to go back to the drawing board and create a bill that values our children and their future.

As I said in my testimony before the House Education Finance Committee and House Ways and Means, I oppose this bill in the strongest possible terms. I believe it is insufficient in terms of providing the resources our students and schools need to be successful. Worse, it has the potential to do serious harm to our children.

Sincerely,

Brenda Cassellius

Dr. Brenda Cassellius
Commissioner

cc: HF 890/SF 718 Conference Committee Members

Minnesota Department of Education

April 7, 2017

Senator Carla Nelson and Representative Jenifer Loon, Co-Chairs
MN Senate E-12 Finance Committee
95 University Avenue W., Room 3231
St. Paul, MN 55155

Dear Senator Nelson and Representative Loon,

I am writing you in regard to the Senate E-12 omnibus bill. I would first like to note that I believe the Senate bill is fair. However, our children need far more than a fair bill; they need and deserve a great one. I continue to hope that the conference committee will receive a larger target. Bipartisan stewardship of taxpayer resources for the past six years has left our state in the enviable position of having $1.6 billion on the bottom line, making our mutual wish for a larger target entirely possible. Now isn't the time to shortchange kids who are counting on us to do what's right for them.

The Senate bill has a target of $300 million, just a fraction of Governor Dayton's proposal to invest $709 million. I commit to doing whatever I can to assist in increasing the target to better address the needs of students throughout the state. The low target also results in a number of missed opportunities.

Currently, 13,800 unserved 4-year-olds are waiting for voluntary prekindergarten in 269 school districts that applied for funding for the coming school year. The governor's budget would provide a total of 17,100 4-year-olds with high-quality prekindergarten across our state. Along with other proposals across his budget that focus on serving young children and their families, we could make significant strides to close opportunity gaps for more children.

School districts still need help with their bottom lines, and while a 1.5 percent increase to the formula is clearly better than a 1.25 percent increase, it simply does not meet the varied needs of our schools. I strongly encourage the Senate to push for a 2 percent increase.

Our American Indian kids deserve the same resources any other Minnesota student gets. In 2015, we provided extra funding for our Bureau of Indian Education schools for the first time since state funding started in 1989. However, this funding of $3,230 per pupil was only for two years. Letting this crucial assistance lapse would be devastating for the students attending these schools. I urge the Senate to put it back in the base and not turn your back on American Indian students who need and deserve our urgent attention.

The Senate bill also misses an opportunity to slow down the growth of the unfunded costs that make up the special education cross-subsidy, which strains district budgets that must be tapped to fill in that gap. These costs are only projected to grow in the future, and I strongly urge the Senate to make an investment in special education.

Like the Senate, I was troubled by the recent findings the Office of the Legislative Auditor reported about the Perpich Center for Arts Education. I appreciate that the Senate bill does not close the school and, in fact, takes steps to improve funding for arts education. The governor has recently worked to reconstitute the Perpich board and feels strongly that the school should be allowed time to address the audit findings. Additionally, I believe that the capacity and specialized expertise to run the federal arts integration grant effectively lies with Perpich, not the Department of Administration. Furthermore, I am concerned that the conveyance of Crosswinds school is in conflict with the way the state dealt with similar transfers in prior years. The conveyance of the Fair School to Minneapolis and Robbinsdale, Harambee to Roseville, and the most recent conveyance of Crosswinds to Perpich did not involve charging taxpayers a second time for buildings they already financed. To deviate from established precedent and make a district, with taxpayer funds, purchase a building already paid for makes no sense. I believe if the target were higher this wouldn't even have been proposed.

I am disappointed that you propose requiring students to seek reimbursement for taking the ACT college entrance exam, rather than having high schools provide the test and pay for its costs up front. Students are not charged for AP and IB tests, so it is not fair to expect kids to pay up front for the ACT either. I hope we can continue to work on this provision so that all students, especially those who come from economic disadvantage and who may be the first in their family to aspire to college, can have the same fair and equitable opportunity to take this important exam.

It is troubling to see that the bill unduly tampers with the department's work as it pertains to federal law. The requirement for legislative approval of the state's plan under the federal Every Student Succeeds Act (ESSA) is unacceptable as written. It will prevent the allocation of hundreds of millions of dollars in Title funding to schools, and the risk of non-compliance in implementing an approved plan under the law jeopardizes millions more in other federal funding streams.

Guidance to states from U.S. Secretary of Education Betsy DeVos clearly requires states to submit their plan to the U.S. Department of Education no later than September 18. ESSA requires the U.S. Department of Education to inform states within 120 days if the plan is approved. If approved, the U.S. Department of Education expects states to implement the plan as submitted in order to receive the federal funds tied to ESSA. If the Minnesota Legislature does not approve the plan in a timely manner, $230 million in federal funds that goes to serve students from low-income families could be forfeited.

Additionally, while it is laudable to emphasize more access to STEM programming, encouraging districts to use federal Title IV funds for particular STEM programs conflicts with federal language and ignores the value of the needs assessment that is currently suggested under federal law. This may conflict with the specified percentages to be allocated to well-rounded education, safety and healthy students, and effective use of technology.

Although it is heartening to see so many of the governor's policy proposals in the bill, Governor Dayton has been clear that finance bills should be clear of policy proposals. However, I must express some concerns I have with the policy proposals in the bill. First, the language around personal learning plans for those that do not read proficiently in third grade is unnecessary. Additionally, I strongly oppose any language that emphasizes grade retention as a tool. We should not be punishing 8-year-olds for the failure of adults. Second, while I want to thank members for their hard work to restructure teacher licensing, I have many concerns, a few of which I will detail here. The consolidated board, which is a move the governor supports, should be housed somewhere other than MDE so the public sees it as clearly independent from the department. I oppose the current licensing of Tier 1 and Tier 2 being at the school board level. We cannot ensure teacher quality with over 325 districts and 150 charters issuing licenses. I also strongly oppose that Tier 1 licenses would be renewable without limit. This would severely threaten teacher quality.

Finally, it is disappointing that the Senate bill does not make necessary investments to assist the department's efforts to deliver timely, effective and critical support to our students, teachers, schools and families. In fact, the bill makes damaging reductions that cause serious harm to the agency. A cut of $2 million would be devastating, resulting in the loss of 10 full-time employees from the cuts in the Senate file alone, on top of 15 full-time employees the department will lose without the governor's proposed operating increase that accounts for compensation increases and rising IT costs. This could have serious implications for the services we provide to schools, including school support, school safety, data analysis, technical assistance on assessments, and school finance. The agency's losses could be even greater without funding for the legal costs we have incurred from several large lawsuits the department is required to defend. Furthermore, the absence of funding for the critical mainframe fix seriously erodes our confidence that we can safely secure student data and deliver funds to our schools on a timely and consistent schedule. I urge you to please reconsider your disinvestment in the staff and infrastructure the department needs to carry out our important work on behalf of Minnesotans.

Again, thank you for your work on this bill; it is a decent place from which to start. Moving forward, it is my hope that we can work together to improve the target and sharpen our priorities in order to give Minnesota kids the best chance at the great education they all deserve.

Sincerely,

Dr. Brenda Cassellius
Commissioner of Education

CC: HF 890/SF 718 Conference Committee Members

MINNESOTA DEPARTMENT OF PUBLIC SAFETY

Office of the Commissioner

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Alcohol and Gambling Enforcement
Bureau of Criminal Apprehension
Driver and Vehicle Services
Emergency Communication Networks
Homeland Security and Emergency Management
Minnesota State Patrol
Office of Communications
Office of Justice Programs
Office of Pipeline Safety
Office of Traffic Safety
State Fire Marshal

April 7, 2017

Chair Warren Limmer
Senate Judiciary and Public Safety Finance and Policy Committee
95 University Avenue W, Room 3221
St. Paul, MN 55155

Chair Tony Cornish
House Public Safety and Crime Prevention Policy and Finance Committee
369 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd
Saint Paul, Minnesota 55155

Dear Chairs Limmer and Cornish,

Thank you for your ongoing commitment to public safety, a core function of state government and the mission of our agency.

As we have discussed with you and testified to in your committees, there are key proposals in the Governor's budget that we strongly believe are critical for the ongoing work of the Department of Public Safety.

These key investments will enable us to assist and support stakeholders such as local law enforcement agencies, the courts, and counties and cities.

Unfortunately, the following essential proposals are not fully funded between the current versions of the House and Senate bills:

- **Increased firearms evidence staffing at the Bureau of Criminal Apprehension** to reduce turnaround times for local agencies.
- **Homicide and narcotics investigators and analysts at the Bureau of Criminal Apprehension** to work complex investigations and support local communities and criminal justice partners.
- **Field Agents and Educator for the Alcohol and Gambling Enforcement Division** to address significant industry growth.
- **Replenishing the State Disaster Contingency Account** to help communities in times of disaster.
- **Funding to support the current operations at current levels in the Department of Public Safety.**
- **Violent Crime Enforcement Teams funding** to help local communities in fighting the ongoing drug epidemic throughout Minnesota.

- **Rail and Pipeline Safety Account funding** to provide ongoing training for local responders.

And these proposals were not included in either bill:

- **Ongoing support of the Criminal History System,** a critical backbone for providing criminal justice partners with up-to-date and accurate information.
- **Drug Monitoring Analyst** to address increasing drug threats with our agency partners.
- **Roseau County Flood Reimbursement Flood Mitigation** work not reimbursed by FEMA.

Additional information regarding each of these proposals is attached.

The Department respectfully requests that you and the committee fully fund each of these critical public safety needs. Thank you for your consideration of these important and essential investments.

Sincerely,

Ramona L Dohman

Commissioner Ramona L. Dohman

Thank you for partially-funding the following proposals between the House and Senate bills. We respectfully request full funding for these investments:

DPS Operational Increase $3.24 million (FY 18)/ $4.64 million (FY 19)

Funding to support the current operations at current levels in the Department of Public Safety. Funding for the agency has not kept pace with the rising costs of ensuring that the Department has enough staff and operating funds to adequately provide its required services and support to all Minnesotans. While your partial support for this request will help address these cost increases, the Department will still need to employ additional cost saving measures. Without full funding, the result will likely include longer wait times for services, delays in projects, delays in inspections, and increased turnaround times.

BCA Investigative Staffing Support $2.46 million/biennium (ongoing)

Homicide and Narcotics Investigators and Analysts. The Department has seen a rise in requests for assistance in complex homicide and narcotics investigations, requiring an increasing number of hours devoted to each. Unfortunately, investigative staffing levels have remained the same or decreased. The BCA's role is to lead these large-scale, complex investigations because many communities throughout Minnesota do not have the resources or expertise to conduct them on their own. These additional BCA agents will be placed throughout Minnesota to meet both rural and urban needs. Without this investment, the BCA's capacity to work these complex narcotics and homicide investigations would be reduced, limiting its ability to fully meet the needs of local communities and criminal justice partners when they request these services.

BCA Firearms Examiners $500,000/biennium (ongoing)

Increase firearms evidence staffing to reduce turnaround times. The number of cases requiring firearms examination has nearly doubled in the past five years, while staffing has not kept pace. The BCA has 360 cases waiting to be processed and the caseload is growing. The processing time will reach 12 months by the end of 2017. Without the investment for two additional firearms analysts, processing times for this type of analysis will continue to increase. Evidence analysis is a core BCA function. Without full funding, increased processing times may delay the criminal justice process, jeopardize individuals' civil liberties and may impact public safety if there is not quick resolution to firearms analysis.

AGED Field Agents and Educator $538,000/biennium ongoing

Field Agents and Educator. Since 2010, the alcohol beverage industry has grown by 14 percent. Due to the popularity and rapid growth of micro-breweries, micro-distilleries, farm wineries and brew-pubs, 16 classes of new alcohol beverage licenses have been created by the legislature. AGED has experienced a 90 percent growth in the number of licenses it issues and an 86 percent increase in the number of initial inspections completed by its three field agents. The industry standard is one field agent for 265 licenses. These three field agents are responsible for 27,809 licenses throughout Minnesota. As such, 91 percent of all licensees have not been re-contacted or inspected for compliance since the license issuance. In addition, the federal funding for the liquor liaison educator expires this year. The liquor liaison educator is often the first, and only point of contact, for city and county governments to provide education and "train the trainer" programs associated with responsible service, underage drinking, and preventing sales to obviously intoxicated persons. Without this full investment, AGED will not be able to provide the oversight, inspection, regulation, and education expected by Minnesotans at a time when the alcohol industry is booming in MN.

HSEM	Disaster Contingency Account	$20 million/biennium (one-time replenish)

Replenishing the Disaster Contingency Account. The funds in the disaster assistance contingency account are needed to help communities recover from the effects of disasters. Under Minnesota Statutes Chapter 12, the state is committed to provide the 25 percent non-federal share for federally declared disasters and the 75 percent portions for state disasters. Over the past 20 years, the state has reimbursed approximately $8 million a year for disaster relief. Minnesota experienced a significant amount of state disaster declarations during 2016. As a result, an additional $20 million is requested to meet future federal and state obligations. Without adequate funds to reimburse communities, local communities will bear the full costs for recovery. In addition, special sessions will likely be needed to address future disasters.

HSEM	Bomb Squad Reimbursement	$200,000/biennium (ongoing)

Bomb Squad Reimbursement. For the last 15 years, the Department has had contracts with the law enforcement agencies of four local jurisdictions – Minneapolis, St. Paul, Bloomington, and the Crow Wing County Sheriff's Office – to provide bomb disposal services outside their regular service areas when requested by local law enforcement through the Minnesota Duty Officer. The four bomb squads are the only local teams in Minnesota that are trained and accredited by the FBI. These local bomb squads provide a critical service to the state of Minnesota. Because state funding is inadequate, the bomb squads are not reimbursed for all of their out-of-jurisdiction response costs.

OJP	Violent Crime Coordinating Council	$2 million/biennium (ongoing)

Violent Crime Enforcement Teams funding. The Governor proposed an investment of an additional $1 million to expand funding for multijurisdictional task forces investigating narcotics, gangs, and violent crime called Violent Crime Enforcement Teams (VCETs). VCETs currently serve 70 counties, but the need is in all 87 counties. This investment helps local communities in fighting the ongoing drug epidemic throughout Minnesota.

HSEM	Rail and Pipeline Safety Account extension	$3 million/biennium (ongoing assessment of the railroad and pipeline companies)

Rail and Pipeline Safety Account. The Governor's proposal to remove the sunset is a critical step in continuing to educate, train, and exercise communities along rail and pipeline routes in Minnesota. The current funds enabled the state, railroad companies, and pipeline companies to come together to provide training for local responders. Ongoing funding will continue this work, in addition to advance opportunities, such as operational training, cold water training, regional evacuation planning grants, local exercise support, educational campaigns, and other investments that would assist local communities to prepare for an incident. The House proposal extends the sunset provision for the Rail and Pipeline Safety Account administered by the Department of Public Safety.

The Department requests your consideration to fully fund these key investments for the following reasons. These are not currently funded in either the House or Senate proposals:

BCA	Criminal History Maintenance	$500,000/biennium (ongoing)

Ongoing support of the Criminal History System. Funding is needed for ongoing system maintenance and support of the new criminal history system. This is a critical backbone system for providing criminal justice partners with up-to-date and accurate information. The Governor's budget included funding for two positions for ongoing maintenance of the new system that was funded by the legislature in 2013. The Department requested this funding in 2013, but it was not included.

BCA	Drug Monitoring Analyst	$200,000/biennium (ongoing)

Drug Monitoring Analyst. The BCA provides critical public safety services, such as information collection, analysis, and dissemination in such areas as drug trafficking. The Governor's budget proposes an investment of one analyst to address increasing drug threats with our agency partners and stakeholders. This would bolster work on combatting the opioid epidemic occurring in Minnesota with the aim of slowing future epidemics of all drugs.

	Roseau County Flood Mitigation Reimbursement	$2.8 million (one-time funding)

Roseau County Flood Reimbursement Flood Mitigation. Roseau County was included in two federally-declared disaster areas following severe flooding in 1999 and 2002. Following these events, the county pursued construction of drainage ditches to protect the community from future flooding. This construction was not reimbursed by the Federal Emergency Management Association. This investment will help Roseau County by reimbursing them for this flood mitigation work.

Thank you for fully-funding the following Public Safety proposals between the House and Senate proposals:

BCA	Predatory Offender Registration System	$4.1 million/biennium (FY 18-19)

Replacing the Predatory Offender Registration System. We appreciate your support, to replace this statutorily mandated-system that has lost critical functionality and needs to be replaced, as confirmed by a FBI audit. The accuracy of this database is critical to public safety. We need the most up-to-date, accurate information on those required to register to meet the intent of the law and protect civil liberties.

BCA	Drug Chemistry Staff	$300,000/biennium (ongoing)

Drug Chemistry Lab Staff. The number of cases requiring controlled substance analysis has grown by 47 percent in the last five years. These external demands, along with the overall increase in case submissions, has resulted in an average turnaround-time (TAT) of over 80 days, more than double the acceptable TAT of 30 days. The BCA regularly receives feedback from prosecutors and judges stating that a TAT of 30 days or less is required to meet the needs of the courts.

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April 10, 2017

Senator Limmer
Assistant Majority Leader
3221 Minnesota Senate Building
95 University Avenue West
St. Paul, MN 55155

Representative Tony Cornish
369 State Office Building
125 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155

Dear Honorable Senator Limmer and Honorable Representative Cornish,

Thank you for your diligent work on this session's public safety omnibus bill. The many hours of hearings, discussions and debate have yielded the framework for a final bill that will enhance public safety for the citizens of Minnesota. However, I would not be doing my job if I did not inform you of concerns the department has regarding your budget cuts.

There are several items in each bill that are troublesome, but the underfunding of the compensation request is the most concerning. The DOC will need to lay off staff without the Governor's request of $47.6 million for compensation. DOC employees play a critical role in improving public safety for Minnesotans and they need to be paid according to their contracts. The Senate funding level of only $6.812 million, is $41 million less than the Governor. The House bill at $16 million is $30 million less.

The DOC also has other requests in the Governor's proposal that without funding will mean cuts in the base, leaving many recidivism reducing programs vulnerable to being reduced or eliminated.

The department must have the following Governor's requests:

- Compensation contracted obligations at Governor's level $47.6 million
- Health care contract FY17 $9.2 million and FY18-19 $22.4 million
- Technology modernization and paying for MNIT rates $9.9 million
    - $3 million for staffing need
    - $6.9 million for rates to MNIT
- Prison Rape Elimination Act $2 million
- Utilities, food and lease inflation $4.9 million
- Operating costs for MCF-St. Cloud and MCF-Shakopee expansions $524,000
- Community supervision and sex offender treatment at $10 million
    - DOC – $2.080 million

    - CCA – $4.410 million
    - CPO – $484,000
    - SO treatment - $744,000
- Mental health at $3.150 million
- Restrictive housing at $3.7 million
- Security staffing and upgrades at $6 million
- Medical and nursing services $2 million
- Offender case management staff $3.456 million
- No supplanting with MINNCOR funding

The House omnibus bill includes a number of very problematic language items, but Article 2, section 2 regarding the purchasing, leasing or operating of Prairie Correctional Facility is the most concerning. I have testified and provided solutions to the departments capacity issues. The request for an additional 75 Challenge Incarceration Program beds at MCF-Willow River and MCF-Togo, and the remodeling of a vacant building at MCF-Lino Lakes -adding 60 beds - are solutions proven to reduce recidivism and provide a return on taxpayer investment. Using current prison locations for small additions is a much more cost effective approach than purchasing a large abandoned property.

Paying for public safety is the most solemn responsibility that any public servant can assume. Cuts of this magnitude will severely impact the DOC's ability to protect the public as mandated by the Minnesota Constitution. *"**ARTICLE I,** Section 1. **OBJECT OF GOVERNMENT.** Government is instituted for the security, benefit and protection of the people…"*

I know we can work together toward developing a budget that protects both the personal safety of our citizens and the financial security of our great state.

Thank you for your time.

Sincerely,

Tom Roy
Commissioner

CC: SF803 Conference Committee Members
Senator Gazelka
Representative Daudt

DEPARTMENT OF HUMAN RIGHTS

Representative Sarah Anderson
100 Rev. Dr. Martin Luther King Jr. Blvd
583 State Office Building
St. Paul, MN 55155

Senator Warren Limmer
95 University Avenue W.
Minnesota Senate Building, Room 3221
St. Paul, MN 55155

April 7, 2017

Dear Representative Anderson and Senator Limmer,

I am writing to provide some additional information about the Minnesota Department of Human Rights budget. The Department strongly supports Governor Dayton's proposed budget as it provides for critical investments to ensure that we create opportunities for all people in Minnesota. Both the House and Senate proposals fail to improve our level of service for the people of Minnesota, while the House's proposal to cut MDHR's budget by 24% takes a huge step backward.

During my time as Commissioner, the need and demand for the services provided by the Department by the people living in every corner of our great state no matter their age, gender, race, or whether they identify as a person with a disability has grown. As you know, disability discrimination complaints are the most common charge filed with MDHR and the Department has resolved disputes in 81 of the 87 counties in Minnesota during my tenure. Moreover, the Department is more actively involved in proactive efforts throughout Minnesota to address economic disparities. Unfortunately, we have 15 fewer people to provide these needed services than we did two decades ago.

<u>Governor Dayton's Budget Request</u>

I would ask you to adopt Governor Dayton proposed budget of $5,610,000 in FY2018 and $6,006,000 in FY2019 for MDHR; this included funding to open regional offices, maintain operations at current levels, and implement a Ban the Box for Housing proposal. Governor Dayton's budget recognizing the important role of the Department in ensuring that opportunities for all people occur in Minnesota is proposing making proactive investments in the Department's capacity to fund: (1) maintaining current operations, (2) establishing regional offices and add capacity to the Department's sole regional office in St. Cloud and (3) helping individuals secure rental housing.

Regional Offices: The Governor's budget includes new regional offices in Rochester, Duluth, and Worthington, and provides an additional individual in the Department's St. Cloud Office. This is a significant opportunity to build upon the positive education and outreach efforts being asked for by businesses, governments, and community groups throughout Minnesota to generate economic development and prosperity. The Department has partnered with local communities and has the support of the mayors of these four communities. The regional offices will also help ensure that more Minnesotans are within two hours or less of a Department office. Often for people who are poor and financially vulnerable, frail due to age or who are being subjected to some form or physical abuse, the ability to meet directly with someone from the Department is critically important.

Maintain Operations: Included in the base figures of the Governor's budget was $248,000 in FY2018 and $444,000 in FY2019 to maintain services at current levels. This is partially funded in the Senate proposal, but without full funding, the Department will not be able to provide the critical services Minnesotans need in a timely way. As you recall, during testimony, the Department without adequate funding will not be able to serve many of the low income and vulnerable people that need help. If the Department does not receive this level of funding, the length of time to complete investigations will dramatically rise and both charging parties and respondents will be harmed. Women who have wrongfully suffered sexual harassment and experienced economic harm should not have to wait for justice. Business owners who want to remove the cloud of doubt over their workplace should not have to wait. Additionally, the collaborative and proactive work of the Department to create inclusive workforces, support emerging entrepreneurs, and increase civic engagement will be jeopardized.

Ban the Box for Housing: The provision is needed to reduce recidivism to ensure that individuals reentering the community have the opportunity to successfully obtain rental housing. This funding builds upon the Legislature's efforts concerning Ban the Box in employment and criminal expungement.

<u>House Position</u>

The House proposal, contained in SF605/HF691[1], fails to address the current needs of Minnesotans and greatly reduces our ability serve vulnerable Minnesotans. The House proposes a major cut of 23.8% to the Department of Human Rights, without identifying any of the services that the Department of Human Rights should reduce or eliminate. This bill only funds 55% of Governor Dayton's proposed budget for the Department. This proposal would also undermine the Department's ability to maintain our existing regional office in St. Cloud.

The House position is extremely concerning to the Department because it completely eliminates funding for recent statutory obligations placed upon the Department, significantly undermines the many positive gains made by the Department to protect vulnerable Minnesota, and fails to provide for the growing needs of many vulnerable people in Minnesota. The Department is already significantly smaller than it was two decades ago. As discussed above, the length of time to complete investigations will dramatically rise and both charging parties and respondents will be harmed. None of the people served by the Department deserve long delays. Additionally, the positive proactive work of the Department to support economic development, civic engagement and collaboratively address workforce shortages, such as in construction, will be dramatically impacted.

Accordingly, we ask that the Committee consider amending the budget bill and adopting the proposed budget request of Governor Dayton. Vulnerable Minnesotans rely on the people of the Department to protect their rights by providing education, investigating complaints of discrimination, and working with state contractors to secure job opportunities. Losing people in the Department because of inadequate funding from the Legislature will result in vulnerable Minnesotans needlessly losing valuable protections

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[1] The Department of Human Rights has mismatched finance committee jurisdictions, with MDHR's budget in the Judiciary/Public Safety budget in the Governor's and Senate budgets, and in the State Government Finance budget in the House. This was also the case in 2015, when MDHR's budget was conferenced in Judiciary/Public Safety.

under law. The Committee should invest in creating opportunities for all throughout Minnesota by adopting the proposed budget request of Governor Dayton.

Senate Position

We appreciate the efforts made by Senator Limmer in SF803 to provide an additional $35,000 in FY2018 and $50,000 in FY2019 to address increasing healthcare costs within the Department and for his comments about the Senate discussing how to provide funding for added pension and salary costs that the Department of Human Rights and all other agencies face.

However, we would like to highlight some of the missed opportunities the bill and the apparent spirit in the Senate to fund pension and salary costs fails to address. Specifically, the Governor's budget, with new regional offices in Rochester, Duluth, and Worthington and an additional individual in the Department's St. Cloud Office, is a significant missed opportunity to build upon the positive economic development and education and outreach efforts of the Department. The mayors of Duluth, Rochester, St. Cloud, and Worthington support the opening of regional offices for the Department as the proactive efforts of the Department to create greater dialog and facilitate consensus among all people is sought by business and community groups in greater Minnesota.

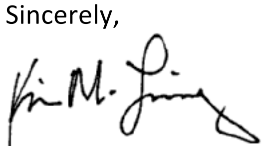
Additionally, the Senate bill fails to provide funding for the Governor's Housing Ban the box proposal. As discussed above, this initiative would build upon the past work that has been championed by the Senate Judiciary committee in the past concerning Ban the Box in employment and criminal expungement.

Conclusion

As you proceed forward in budget negotiations, I would ask that you fund the Department at the level identified within the Governor's budget. I hope you will not hesitate to contact me or MDHR's Public Policy Director, Scott Beutel at (651) 231-2795 or by email at scott.beutel@state.mn.us.

Thank you for your consideration.

Sincerely,



Kevin Lindsey
Commissioner

cc: Members of the Judiciary Public Safety Conference Committee
Joane McAfee, Office of Governor Mark Dayton

DEPARTMENT OF TRANSPORTATION
395 John Ireland Boulevard
Saint Paul, Minnesota 55155

April 6, 2017

Senator Scott Newman, Chair
Senate Transportation Finance and Policy Committee
3105 Senate Office Building
St. Paul, MN 55155

RE: SF 1060 (Omnibus Transportation Bill)

Dear Chair Newman:

I have had an opportunity to review Senate File 1060, and appreciate the effort the committee invested in crafting this piece of legislation. This letter contains my reactions to the provisions in the bill and I hope you will consider them as the legislation moves forward.

Thank you for your proposal to increase funding for roads and bridges. It suggests that we agree that increased funding is needed to adequately preserve and improve highways and roads in all jurisdictions across the state. In addition, I appreciate your having included several of the policy provisions that the Governor recommended on behalf of the department. When they are approved these changes will help the department better serve the people of Minnesota.

Unfortunately, in our view, the additional funding that would be provided if this bill were enacted is insufficient to adequately address the needs of the state and local systems. In addition, the exclusive reliance on funding from sources that history has proven to be unreliable makes it questionable whether the funding amounts will be available in future years.

Below I have listed specific concerns with SF 1060.

SF 1060 Provides Insufficient Funds to Preserve, Modernize and Strategically Expand the System

The $383 million for the biennium of new funding dedicated to the Highway User Tax Distribution Fund provides only $226 million to the Trunk Highway Fund. This is nowhere close to meeting the $600 million annual funding needed to preserve and improve the trunk highway system. At this funding level the department will be unable to adequately invest in preserving the system and will be unable to strategically expand the system along key regional corridors, and address bottlenecks. These are the types of investments Minnesota needs to remain economically competitive.

SF 1060 Lacks Sustainable and Dedicated Funding Sources for Transportation

The funding plan reflected in this legislation completely lacks a long-term dedicated funding source for roads and bridges. A dependable funding stream is critically important for the efficient management and improvement of our transportation system, and the lack of predictability is a significant concern. Funding fluctuations during the long lead times required to develop projects to maintain and improve the system create inefficiencies that have financial impacts on MnDOT, contractors and project partners. The need for reliable funding streams is the primary reason why ninety-six percent of transportation funds across the country come from non-general fund sources.

Although some people believe that reducing the gas tax rate can occur as readily as a decrease in a general fund appropriation, historical experience suggests otherwise. The gas tax in Minnesota has never been reduced in Minnesota since it was first enacted 1925. On the other hand, there are recent examples of general funds and MVST dollars that had been designated for transportation during one biennium, and were appropriated for other purposes in the next biennium. History has shown that constitutionally dedicated funds are more stable, predictable, and reliable than funds from other sources.

SF 1060 Eliminates Flexible Fund for Turnbacks

MnDOT turns back highway segments to local jurisdictions when they start to perform a function more similar to a local road than a regional connector. Turning the road back usually benefits both the state and the local road authority. However, the road must be in a reasonable condition before it can be turned back and the flexible fund is the source of funding for this purpose. Sometimes it makes sense for the jurisdictional transfer and the road improvement to occur at different times. Putting these funds in the trunk highway fund will make it much more difficult to finance efficient jurisdictional transfers.

SF 1060 Earmarks

Three projects are earmarked for trunk highway bond funding in the bill. Funding projects with earmarks bypasses the planning and programming processes at MnDOT, causing delays to projects already programmed. Since the projects are only partially funded, it also creates pressure to divert additional funds from other projects to complete the earmarked projects. This is the definition of projects being selected without application of criteria and a lack of transparency. In addition, all of the earmarked projects require right of way acquisition which cannot be funded with trunk highway bonds due to federal arbitrage rules, and some require local road construction, which cannot be financed with trunk highway funds.

While some prefer the term “constituent request” to earmark, MnDOT receives thousands of constituent requests throughout the state on an annual basis. We work with local jurisdictions to thoughtfully and fairly plan, scope and build projects worth hundreds of millions of dollars that take years to efficiently stage and execute. In fact, the legislative auditor praised the consistency and success of our standard project selection process. Earmarking is the process politicians use to leapfrog certain projects over others that is neither fair nor based on objective criteria. Earmarking is inherently unfair and disruptive to the efficient management of the entire transportation system.

SF 1060 Eliminates Funding for the MnDOT Passenger Rail Office

The complete lack of funding for passenger rail operations is a concern. Considerable work has been done on passenger rail over the last several years. The state investment has attracted considerable federal funds and prepared the state to implement additional passenger rail service to Chicago in the relatively near future. This effort has been supported by a partnership with Wisconsin and all of the information available indicates a relatively high demand for this service.

SF 1060 No Funds for State Plane Purchases

The two MnDOT passenger airplanes are reaching the end of their useful service lives and need to be replaced. The airplanes are used by state agencies to perform their duties effectively and efficiently and are often used to transport elected officials. The pilots use these planes to perform necessary inspections of airports and helipads across the state. The current aircraft face increasing maintenance costs and down time.

SF 1060 Lack of a General Fund Increase for Freight

There is no general fund base appropriation for rail freight programs to manage the increasing number and complexity of freight rail traffic in Minnesota. Stable funding is needed for project development, planning, and grant administration to address safety issues in addition to responding to concerns from constituents as well as elected officials. This funding would help address issues with the overall state rail safety, rail service and rail impacts on communities.

SF 1060 No Funding for the Working Capital Loan Fund

The Working Capital Loan Fund Program supports the goal of equity and reducing disparities in contracting by providing loans to small businesses that provide necessary operating capital to participate in MnDOT projects. The omnibus bill does not provide any funding for this important program. The Governor's recommendation of a onetime infusion of $1.5M for this program is a minimal amount of funding for a program with so many positive outcomes.

SF 1060 Local Assistance Not Included

The Governor's recommendation to provide $2.5M for tribal roads, $19M for aid to larger cities and $4M for Americans with Disabilities Act projects on local roads allows communities and Minnesotans an opportunity to address local infrastructure needs.

SF 1060 Workforce Optimization Not Included

A base increase to hire approximately 260 operations maintenance staff would provide a full complement of snow plow truck operators to cover two shifts per day and staff critical spring and summer maintenance work. It would also relieve the current practice of hiring for cross-over positions in program planning and delivery for snow plowing. Enacting this provision would make project development and snow and ice removal more efficient.

SF 1060 Highway 55/County Road 19 Railroad Crossing

This legislation is an earmark and the language includes an overly aggressive timeline. MnDOT is working already with local stakeholders to find a solution to the safety concerns on Highway 55 and County Road 19. The traffic problems can only be solved by working with the railroad to eliminate the issues with parked trains on a new rail siding. The requirements in the bill are not realistic and if constructed would not address the traffic problem. It is highly unlikely that a consensus solution can be reached by the date identified in the bill.

SF 1060 Project Selection Requirements

The bill contains numerous provisions related to the MnDOT project selection process for both Corridors of Commerce and the regular highway construction program. Although some of these changes reflect the department intention to implement recommendations of the recent legislative audit, the bill goes further and could result in unintended consequences. The bill includes a provision prohibiting project readiness from being a major factor in determining which projects to construct. This factor is critical to maximizing the expenditure of state and federal funds in a timely manner. The language also requires projects to be constructed in priority order. It is an unrealistic and impractical mandate to expect that hundreds of projects around the state can be scheduled in such an inflexible manner.

SF 1060 Tribal Training Appropriation Not Included

This funding would provide training to state agency employees to improve their effectiveness working with the eleven Minnesota Indian tribes. This training has increased the efficiency of MnDOT and other state agency employees by providing training on how to more appropriately interact, communicate and collaborate with tribes and tribal governments. A General Fund appropriation is needed to extend this training to other agencies and is included in the House Omnibus Transportation bill.

SF 1060 Inadequately Funding Building Services

The omission of the Governor's recommendation to increase funding for Building Services significantly restricts the ability to maintain, renovate and replace MnDOT facilities. Keeping facilities functioning well and in a state of good repair is critical to efficient operations and provide clean functional services to the traveling public. Funding for these activities has not kept pace with identified needs.

SF 1060 Highway Sponsorship Program Not Included

This proposal would provide MnDOT the authority to enter into agreements with businesses, civic groups or individuals for the maintenance and improvement of Trunk Highway property. Examples include sponsoring plantings to enhance pollinator habitat, the Adopt-A-Highway program, and highway beautification projects. The legislation also gives MnDOT authority to give recognition (such as signage) to program participants. This helps create effective partnerships between the state and business or other organizations to help MnDOT improve roadsides at minimal cost.

SF 1060 Utility Relocation on the Interstates Not Included

This proposal would require utilities installed along interstate highways in the future to relocate at company expense. Currently utilities installed along interstates are relocated at MnDOT expense when required to accommodate construction projects. Relocation costs of utilities along all other trunk highways is paid for by utilities. The current policy may have made sense as the interstate system was developed, but the system is now well established and utilities are well aware of the risk of relocation. This would only apply to utilities placed after passage of this change, grandfathering in all existing utilities.

SF 1060 Truck Permits Cleanup Language Not Included

This proposal repeals two sets of changes made to oversize/overweight permit statutes that are not being used. One relates to linking the expiration date of an oversize/overweight permit to a vehicle's registration, and the other cancels a $30,000 appropriation made in 2012 to tie the MnDOT permit system to the DPS vehicle registration system. Both of these provisions would be costly and impracticable for MnDOT and DPS to implement, in major part due to the pace of Minnesota License and Registration System (MnLARS) development. This provision would only create more efficient delivery of services yet was left out of the bill.

SF 1060 Needed Rail Provisions Not Included

Rail Safety Inspectors

This provision included hiring up to five additional rail inspectors, plus a program manager. The State Rail Safety Inspection Program ensures compliance with federal and state safety regulations which will help reduce the number of rail accidents. Class I & II railroads would be assessed annually for the actual costs of the program. This important safety provision ensures that railroad tracks and equipment are operating safely within Minnesota.

Grade Crossing Safety Improvements

Rail Safety Account

Increasing funding estimated at about $3.725M would allow for a significant increase in the number of small grade crossing safety projects that could be built on state and local roads.

Railroad Assessment for Safety Improvements on Priority Rail Corridors

The intent of this investment program is to improve grade crossings and reduce or eliminate grade crossing crashes, fatalities, injuries, and the release of hazardous materials. The Governor's recommendation was to fund this program from an annual assessment on Class I railroads.

SF 1060 Excessive Number of New Reports Mandated

Nine new reports, plans and studies mandated in this bill. MnDOT currently produces over 30 statutorily mandated reports on annual, biennial or four year cycles. Adding more reports and studies increases operating costs and decreases efficiency, which ultimately reduces benefits delivered to users of the system.

SF 1060 Speed Enforcement on I-35E

The state of Minnesota, the Federal Highway Administration, and MnDOT signed an agreement that was incorporated into a court order that allowed the construction of I-35E southwest of downtown St. Paul. Among other commitments these parties made to get authority to construct the freeway was limiting the speed limit on this four mile section to 45 miles per hour. This provision to restrict the recording of violations of this speed limit is a thinly veiled attempt to void the spirit and intent of the agreement. The state could face sanctions and lawsuits as a result of this abrogation of trust. The integrity of the state seems a high price to pay for less than a minute in travel time savings.

SF 1060 Clean Air Act Settlement Money

This provision pertains to an estimated $47 million settlement from a federal suit against Volkswagen for their cheating. The language requires Legislative appropriation before Minnesota's share of these funds can be spent. The Minnesota Pollution Control Agency, as the fiscal agent for these funds, is concerned this language will, at best, delay Minnesota's funding or, at worst, make the state ineligible to receive funds.

SF 1060 Active Transportation Program

While the department supports the creations of an active transportation program, there are several issues that have to be resolved with the language currently in the bill.

- MnDOT cannot physically transfer National Highway Performance Program (NHPP) funds to a state account, because they are only available as reimbursements of project expenditures. Funds from this program can only be used for projects on the National Highway System (NHS). Diverting these funds from work on the NHS would reduce work to preserve pavement and bridges on the system.
- Non-profits would not be eligible recipients of federal funds so a government agency would have to administer the program.
- There are also constitutional restrictions about where state funds can be used which are not adequately addressed. GO bonds cannot be used on a trunk highway. MnDOT's Office of State Aid may have to administer those as we may not have an eligible funding source to staff a non-trunk-highway, non-federal-aid program.

- If this transfer were made it would directly reduce the money that is used for non-National Highway System projects, negatively impacting non-NHS pavement and bridge conditions.
- Grantees cannot have five years to execute their project. Federal funds only have a life of three years and GO bonds only have a life of four years.
- Federal obligation authority must be used every year. Past experience with local projects indicate there will be a high attrition and delay rate, meaning MnDOT will have to flex its program to cover for those delays. That creates another burden on our program to maintain flexibility and increases the risk that we will lose federal funds.
- Bonds cannot be used for maintenance or for non-infrastructure projects.

We do appreciate your work on this bill and your inclusion of many of the Governor's policy recommendations. Thank you for the opportunity to provide comments on SF 1060. We look forward to working with you in the coming weeks on these important issues.

Sincerely,

Charles A. Zelle
Commissioner

DEPARTMENT OF TRANSPORTATION

395 John Ireland Boulevard
Saint Paul, Minnesota 55155

April 6, 2017

The Honorable Paul Torkelson, Chair
House Transportation Finance Committee
3105 State Office Building
Saint Paul, MN 55155

RE: HF 861 (Omnibus Transportation Bill)

Dear Chair Torkelson:

I have had an opportunity to review the Omnibus Transportation Finance Bill, House File 861, and appreciate the effort the committee invested in crafting this piece of legislation. This letter contains my reactions to the provisions in the bill and I hope you will consider them as the legislation moves forward.

Thank you for your efforts to increase funding for roads and bridges across the state. The funding provisions in the bill seem to reflect your understanding of the need to increase funding to preserve and improve the existing system and the magnitude of that need. Thank you, too, for including several of the policy initiatives the Governor recommended for the department. They will support improvements in department operations.

Unfortunately in our view the new resources provided in the bill fall short of what is needed in several areas. It also relies too heavily on funds that history has shown to be unreliable sources of ongoing funding for infrastructure.

Below I have listed specific concerns about the bill.

HF 861 Lacks the Funds Necessary to Preserve, Modernize and Strategically Expand Our System

While I do acknowledge and appreciate your efforts to fund the gap for the state highway system. The overall funding level for the trunk highway system will force MnDOT to prioritize more short-term fixes focused on preserving the system in its current state, rather than modernizing bridges and pavements for the long term. We will also be extremely limited in our ability to strategically expand the system along key regional corridors, address bottlenecks, and keep us economically competitive given the funding constraints in HF 861. Comparatively, the overall funding level in your bill for the trunk highway system is significantly less than the amount the Governor requested.

HF 861 Lacks Sustainable and Dedicated Funding Sources for Transportation

The complete lack of a long-term dedicated funding source for roads and bridges is a significant concern. The Governor's proposal provides constitutionally dedicated funding increases that can be relied on over the long term and can only be used for transportation purposes. While some have suggested the legislature can reduce gas taxes just as easily as it can reduce general funds, it is a fundamentally different question. The gas tax has not been reduced since it was first collected in 1925. However, there are recent examples of general funds and MVST dollars being designated for transportation during one biennium, only to be recaptured and used for non-transportation purposes in the next biennium. While it is true that the funds shifted from the general fund to transportation in your plan are statutorily dedicated, as history has demonstrated it is entirely possible that these funds can be shifted to other priorities. However, it is constitutionally prohibited to divert gas tax or registration tax funds for any purpose other than roads and bridges.

A dependable funding stream is critically important for the efficient management and improvement of our transportation system. Projects to maintain and improve the system have significant lead times for development and design before they can be constructed. Funding fluctuations create inefficiencies when significant funds are invested to develop projects that then have to be delayed. This inefficiency has financial impacts for MnDOT, but also contractors who invest in equipment and employees in expectation of projects being out for bid and local governments who participate in most MnDOT projects. That is why, nationwide, ninety-six percent of transportation funds come from non-general fund sources.

The general fund money in your plan comes at the expense of education, nursing homes and other priorities.

HF 861 Adding an Additional Fund-Transportation Priorities Fund

The creation of another fund for transportation that allocates out monies through statutory percentages will add another layer of complexity to an already complex funding structure. It will require additional transactions, making reporting and project tracking even more complex. The fact that the money in this fund is not constitutionally dedicated may mean that this layer will exist for a short period, again adding complexity to tracking historical costs.

HF 861 Reaches Bond Capacity

Based on rough estimates, the $1.3B in bonds would push debt service essentially to the 20 percent debt policy limit. If revenue does not meet forecast or if interest rates increase unexpectedly, adjustments will have to be made to future spending to offset this impact. In addition, there is concern that taking on 20 year obligations for debt service with only a two year commitment of resources to cover the debt adds significant additional risk to the availability of these funds to preserve and operate the highway system.

HF 861 Eliminates Funding for Passenger Rail Office & MRSI Funding

The complete lack of funding for passenger rail operations is a concern. Considerable work has been done on passenger rail over the last several years. A minimal state investment has attracted considerable federal funds and prepared the state to implement additional passenger rail service to Chicago in the relatively near future. This effort has been supported by a partnership with Wisconsin. All of the information available indicates a relatively high demand for this service.

We do appreciate the $1M in funds for the rail service improvement program, but we do have some concern that the provision to forgive an outstanding loan by changing it to a grant will deplete the funds available for future rail improvements, while setting bad precedent. Most Minnesota families could not expect to have a loan forgiven under any circumstances. It is hard to see the public benefit in a unilateral change that gives taxpayer funds to benefit one private company.

HF 861 No Funds for State Plane Purchases

MnDOT aging aircraft are reaching the end of their useful service lives and need to be replaced. The airplanes are used by state agencies and elected officials to perform their duties effectively and efficiently. In addition, MnDOT pilots often perform necessary inspections of airports and helipads across the state with these planes. The current aircraft face increasing maintenance costs and down time.

HF 861 Lack of a General Fund Increase for Freight

There was no base increase to support Freight Office activities due to the increased complexity of freight programs and increased volume of rail issues. A general fund appropriation is needed for stable funding to address safety issues, complete project development, planning and responding to questions from constituents and elected officials. This funding would help address issues with the overall state rail safety, rail service and rail impacts on communities.

HF 861 No Funding for the Working Capital Loan Fund

The Working Capital Loan Fund Program supports the goal of equity and reducing disparities in contracting by providing loans to small businesses. These loans would be used to acquire the necessary operating capital to participate in MnDOT projects. The omnibus bill does not provide any funding for this important program. The Governor's recommendation of a onetime infusion of $1.5M for this program is a minimal amount of funding for a program with so many positive outcomes.

HF 861 Local Assistance Not Included

The Governor's recommendation to provide $2.5M for tribal roads, $19M for aid to larger cities and $4M for Americans with Disabilities Act projects on local roads allows communities and Minnesotans an opportunity to gain relief and fix their infrastructure. The lack of funding for these programs means lack of progress on these important areas.

HF 861 Workforce Optimization Not Included

A base increase to hire approximately 260 operations and maintenance staff would provide a full complement of snow plow truck operators to cover two shifts per day. This increase in staff would also perform critical spring and summer maintenance work and replace current cross-over positions in program planning and delivery now used for plowing. We strongly believe this increase would make the organization more efficient and effective. The prohibition on implementing workforce optimization essentially prohibits the agency from making changes that increase efficiency in one of the most essential safety related services we provide the traveling public--plowing snow.

HF 861 Inadequately Funds Building Services

Although you did fund half of the Governor's recommended increase for Building Services, the full amount is necessary to adequately maintain MnDOT facilities. These funds are used to renovate, and replace MnDOT facilities critical to MnDOT operations. Funding for these activities has not kept pace with needs. Some of these buildings are rest areas that provide crucial services to travelers across the state and need the funding to be maintained and repaired.

HF 861 Highway Sponsorship Program Not Included

This proposal gives MnDOT the authority to enter into agreements with businesses, civic groups or individuals for the maintenance and improvement of Trunk Highway property. Examples include sponsoring plantings to enhance pollinator habitat, the Adopt-A-Highway program, and highway beautification projects. The legislation also gives MnDOT authority to give recognition (such as signage) to the program participants. This simple highly cost effective change can create effective partnerships between the state and business or other organizations and help MnDOT to better the roadsides without increasing costs.

HF 861 Utility Relocation on the Interstates Not Included

This proposal means utilities must relocate their facilities at company expense rather than the state paying the cost. Utility relocations on all other roadways have to be paid for by the utility companies. When the Interstates were first being constructed it was common to encounter utilities already located within the proposed right-of-way. Because of this, it made sense to compensate utility companies for the relocations. Now, utilities are often placed within Interstate right-of-way fully aware that they may be required to move in the future. This proposal only applies to utilities placed after passage of this change, grandfathering in all existing utilities.

HF 861 Truck Permits Cleanup Language Not Included

This proposal repeals two sets of changes made to oversize/overweight permit statutes that are not being used. One relates to linking the expiration date of an oversize/overweight permit to a vehicle registration, and the other cancels a $30,000 appropriation made in 2012 to tie the MnDOT permit system to the DPS vehicle registration system. Both of these provisions would be costly and impracticable for MnDOT and DPS to implement. This provision only seeks to create efficient delivery of services yet was left out of the bill.

HF 861 Aeronautics Fund

The appropriations from the State Airports Fund will leave the fund with a negative balance. The fund also has a fund balance policy minimum of $2.1M. The fund cannot support this without increasing the airline flight property tax.

HF 861 Needed Rail Provisions Not Included

Rail Safety Inspectors

This provision includes hiring up to five additional rail inspectors, plus a program manager. The State Rail Safety Inspection Program ensures compliance with federal and state safety regulations which will help reduce the number of rail accidents. Class I & II railroads would be assessed annually for the actual costs of the program. This important safety provision ensures that railroads are operating safely within our state.

Grade Crossing Safety Improvements

Rail Safety Account

Increased funding estimated at about $3.725M would allow for a significant increase in the number of small grade crossing safety projects that can be programmed and delivered rapidly.

Railroad Assessment for Safety Improvements on Priority Rail Corridors

The intent of this investment program is to reduce or eliminate grade crossing crashes, fatalities and injuries, and the release of hazardous materials causing environmental damage. The Governor’s recommendations were for funding that would be provided from an annual assessment on Class I railroads.

HF 861 Prohibition on MnDOT Attorneys for Data Practices Requests

Prohibiting MnDOT attorneys from performing their duties is not efficient. Contracting with the Attorney General’s Office to perform legal functions has slowly been discontinued in favor of agencies doing their own legal work because that is where data is stored and maintained. This prohibition would create an inefficient, more costly process and will lengthen the time to fulfill the requests for data.

HF 861 Milk Truck Weight Increase Will Damage Road and Bridge Infrastructure with No Enforcement

Laws regarding allowable weight limits, lengths and widths of commercial motor vehicles are designed to ensure safe vehicle operation on Minnesota roadways and to preserve the state investment in highway and bridge infrastructure. This proposal allows over weight trucks that would inflict 46 percent more damage to pavements than trucks operating at current legal weights, while removing effective civil enforcement of overweight milk hauling vehicles.

HF 861 Construction Materials Truck Weight Increase

This provision permits trucks carrying construction materials to exceed current legal maximum weights and provides that a permit issued by the commissioner is valid for operation on highways regardless of jurisdiction. Recent studies of trucks that exceed current limits raise questions about the safety of heavier trucks on highways. The recent federal study recommended that no changes be enacted to increase legal truck weights because there is insufficient data and analysis to identify the effects of overweight vehicles at this time. In addition, the sections of the bill regarding MnDOT requirements to issue permits and provide information to local road authorities is vague and unworkable. It provides no meaningful protection against excessive damage to local roads from heavier trucks.

HF 861 Motor Vehicle Title Transfer Fee Change

The revenue currently collected during a motor vehicle title transfer is deposited into the Environmental Fund; however, the language of the omnibus bill changes where this is deposited and instead moves the money to the newly created transportation priorities fund. These funds are important and should continue to be deposited into the Environmental Fund which mitigates the environmental impacts of road and bridge construction and maintenance projects. This is important to reduce the impact road projects have on the environment.

HF 861 Red Wing Project

The bill provides additional local funding for the Highway 61 project in Red Wing. In addition to being an earmark for a specific project, this provision changes the terms of an agreement the department entered into with the city under which both parties agreed to limit state participation. The department already paid $500,000 above the limit in the agreement. Legislating changes to contract terms sets a very troubling precedent.

HF 861 Excessive Number of New Reports and Report Changes

In the bill, there are 6 new reports and studies, most with no funding attached, and two expanded reports. MnDOT currently produces over 30 statutorily mandated reports, depending on the year (odd or even, 2 year cycle, 4 year cycle, etc.). Adding more reports or increasing reporting demands detracts from efficiency.

Posting the project information on the website is done with many projects but maintaining those sites and updating the information is inefficient for project managers and engineers. The benefit to the public will be minimal compared to the amount of time it will take to maintain the websites.

HF 861 Conveyance of Property to Duxbury

This provision transfers property purchased and improved with state 911 ARMER funds to the Duxbury fire department. This land was acquired for $28K and improved for a total investment of $750K and this provision gifts it to the fire department for $100. The department currently has a 20 year lease with the fire department that provides use of most of the site and buildings for a nominal fee.

MnDOT needs full control of the property to operate and maintain the ARMER tower which provides access for local law enforcement and first responders to the statewide public safety radio system. The site is crucial to the ARMER system. Any change in ownership would be detrimental to the ARMER system and could lead to the decommissioning of the site.

HF 861 Corridors of Commerce

These projects are capital projects so all funding must be encumbered at the time of letting. The appropriation does not provide carryforward language on encumbered funds similar to State Road Construction funds. This would mean Corridors of Commerce funds would cancel at the end of the biennium making funding prohibitive for the large Corridors of Commerce projects.

HF 861 Corridors of Commerce Bond Funding for Right of Way Acquisition

Based on federal arbitrage rules, trunk highway bond funds cannot be used to acquire right of way, so this provision may not deliver the results intended within the legislation. Even though the amendment to convert some funding to cash addresses this concern, it is uncertain whether the amount is sufficient.

We do appreciate your work on this bill and your inclusion of many of the Governor's recommendations.

Thank you for the opportunity to provide comments on HF 861. We look forward to working with you in the coming weeks on these important issues.

Sincerely,

Charles A. Zelle
Commissioner

April 7, 2017

Representative Paul Torkelson, Chair
House Transportation Finance Committee
381 State Office Building
100 Rev. Dr. Martin Luther King, Jr. Boulevard
St. Paul, MN 55155

Chair Torkelson:

I would like to share with you my concerns about HF 861 regarding metropolitan area transit. As noted in our previous letters, HF 861 results in a $122M reduction to Metro Transit regular route bus for the FY2018-2019 biennium, even after a fare increase. This means HF 861 is devastating to the Metro Transit regular route bus system.

In committee on March 22, 2017, the Council testified the impact of the bill would be a $55M cut to Metro Transit regular route service that would require at least a 12% service cut even after a $0.25 across the board fare increase was applied. Upon further review, it is now clear to us that HF 861 has a $122M reduction to Metro Transit regular route bus for the FY2018-2019 biennium. We have confirmed this understanding with the committee's fiscal analyst. The $122 M cut would lead to a 40% service reduction, even with that same fare increase applied. Further, by the FY2020-2021 biennium, our entire general fund is dissolved. The service cuts needed to operate Metro Mobility and what would be left of our regular route bus system are disastrous.

Conversely, HF 861 protects and provides additional funding to the suburban transit providers (opt outs). With this approach, you are protecting some of the least efficient and most expensive service when compared to similar service provided by Metro Transit. We do not understand why the committee has chosen to shield the services in a sub-section of suburban cities from cuts while ignoring the impacts HF 861 will have on urban service and other metro area suburbs who have Metro Transit bus service, i.e. Anoka, Inver Grove Heights, Lakeville, and Lino Lakes.

In summary, the House transportation bill and transportation provisions in HF 4, the omnibus tax bill:

- Ignores the regional biennial transit deficit of $74M, including a $24M Metro Mobility deficit
- Shifts the state's responsibility for $67M of light rail operations costs to CTIB
- Reduces the general fund appropriations available to regional transit by $118M
- Increases the regional transit deficit to a net of $122M
- Protects a select few metro area transit providers from this cut who serve only the south and west suburbs
- Adds funding for these same select suburban transit providers to expand services at the expense of service cuts to all other urban and suburban communities

As a result:

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- Significant service cuts will be shared across all metropolitan area communities except for a few south and west suburbs.
- Eden Prairie, Prior Lake, Savage, Shakopee, Eagan, Burnsville, Plymouth, and Maple Grove will experience service expansion while all other communities like Lakeville, Bloomington, Anoka, Inver Grove Heights, Lino Lakes, Minneapolis, St. Paul, and others will need to absorb the entirety of the $122M deficit.
- Bus riders in all but the select communities will experience significant fare increases along with service cuts of 40%.
- Metro Mobility, providing ADA services to people who are elderly and disabled, will experience significant fare increases and service reductions leaving only those services that are minimally required in place.

This budget fails recognize how transit and road infrastructure work together to support the movement of people, goods, and services. 80% of metro area transit rides are for people going to and from work and school. 40% of all employees of our downtowns ride transit to work. This budget damages the fundamental integrity of our current bus services. It will significantly increase demands on already crowded freeways and starts a downward spiral in our metro area transportation infrastructure. In the end, this budget will be harmful to our metro area economy that serves as a primary contributor to the state's economy. All Minnesotans lose.

The Metropolitan Council has several policy concerns with HF 861 as well:

- **Article 3, Sections 90 and 91** prevent regional railroad authorities and cities or counties from spending any funds for studying, project development, or construction of a light rail project unless the legislature specifically authorizes the project. Since this language prevents the study of light rail, the bill curtails transitway development by requiring legislative authorization before an alternatives analysis (AA) is completed or a locally preferred alternative (LPA) is selected, even if the locally preferred alternative turns out to be a mode other than light rail. The primary purpose of studying transit options through the alternatives analysis process is to determine what, if any, transit solution is feasible and would be most effective within a corridor. Cities, counties, and regional rail authorities typically conduct the alternatives analysis process, not the Metropolitan Council or MnDOT. Importantly, the AA process does not pre-suppose light rail will be the option selected, but this language in HF 861 seems to prohibit any local funds from studying alternatives for a corridor if the result (the locally-preferred alternative) could be LRT.

  In essence, the legislature becomes the central transit planning agency for the metro region and takes away that responsibility from local governments, regional rail authorities, the Metropolitan Council, and MnDOT.

- **Article 3, Section 92** pertains to the Metropolitan Council's budgeting process. This section requires the Metropolitan Council budget include certain transit financial planning information and that the state general fund appropriations that reflect the state general fund base appropriations. Under current law, the Metropolitan Council presents its budget to the Legislative Commission on Metropolitan Governance (LCMG) every year. The LCMG provides legislators the opportunity to exercise this budgetary oversight and seek additional information about the Metropolitan Council budget today.

- **Article 3, Section 93 and Section 104** direct the Metropolitan Council to set a farebox recovery objective of 40 percent in the Transportation Policy Plan by December 31, 2017. This goal is not achievable for all services based on our research of farebox recovery ratios across the United States. Every two years the Council conducts a Transit System Performance Evaluation (TSPE) where we analyze performance measures to evaluate how the region's transit system is performing. Fare recovery is one of the measures used in this evaluation. In the TSPE we compare our region's fare recovery ratio to that of other comparable regions across the country (comparable regions are those with a similar population, transit system size, and similar mix of service types.) No comparable region has a fare recovery ratio for fixed route services above 38 percent. As fares continue to rise, there is a point at which the fares become so high that the system experiences a decline in fare recovery rather than an increase, as high fares cause too many riders to flee the system. Furthermore, the Transportation Policy Plan is not the mechanism that sets transit fares, so setting a fare objective and identifying strategies to meet that objective in the TPP will not in itself adjust fares. To adjust fares, the Council is required to adhere to a federally-regulated process that happens outside the TPP.

- **Article 3, Section 94** amends the formula to allocate more MVST funds to suburban transit providers and less MVST funds to Metro Transit. This change will reduce funding to Council-provided services, dollar-for-dollar. Already, suburban providers receive more funding when based on the number of rides served. In 2016, Metro Transit bus, light rail, and commuter rail provided 85 percent of regional ridership but received 74 percent of regional operating dollars. In 2016, suburban transit providers provided 5.4 percent of regional ridership while receiving 8.5 percent of regional operating dollars. In general, suburban providers have a higher subsidy per passenger and lower farebox recovery relative to comparable Metro Transit services. This MVST shift is on top of the $1.5 million from the transportation priorities fund in FY2018 for a demonstration project.

- **Article 3, Section 95** prevents the Metropolitan Council from issuing Certificates of Participation or other obligations backed by MVST. HF861 already shifts the Metropolitan Council's transit funding off the general fund onto MVST. This section further restricts the Council's use of MVST by prohibiting the Council from using these constitutional funds as debt service for large transit capital purposes. This proposed language in HF 861 is contradictory to the intended purpose of the MVST revenue source for the Metropolitan Council (operations and capital) and is contradictory to how MnDOT uses its 60 percent share of these same MVST receipts to secure debt for Trunk Highway Bonds.

- **Article 3, Section 96** prevents the Metropolitan Council from spending any funds for study, project development, or construction of a light rail project unless the legislature authorizes the project. While most funding for light rail lines is funding from local or federal partners, this section would prevent the Metropolitan Council from using Council funds on these projects as well.

- **Article 3, Section 97, Section 98, and Section 105** place new requirements on current and future light rail construction projects. Section 97 requires the Council to establish design criteria for co-location of freight rail and light rail that is subject to an independent audit, and an alternatives analysis process. This requirement duplicates existing requirements. Currently, the design criteria are established early in the design phase and is based on input from LRT operations and freight rail operations, state requirements, Federal Railroad Administration (FRA) requirements, and current standards of practice. The design criteria are used in the development of the plans and specifications for the safe operation of LRT. Section 98 requires the Metropolitan Council (or MnDOT) to perform an alternatives and benefit analysis before beginning environmental analysis or preliminary engineering. An alternatives analysis is already a part of the planning process for New Starts projects.

Section 105 applies Section 97 and Section 98 to Southwest and Bottineau, the two light rail projects currently in project development. I would respectfully remind that SWLRT and BLRT are only two of five New Starts projects nationally authorized to complete final engineering. The Federal Transit Administration's policy is that project sponsors need to demonstrate forward progress on their projects. If HF861 goes into effect, SWLRT would go back to 2008 to revisit the alternatives analysis and would go back to November 2013 when the governor directed the Council to look again at freight rail and light rail co-location, signaling to the FTA that the project is going in reverse rather than demonstrating forward progress.

- **Article 3, Section 99** prevents the Metropolitan Council and local units of government from planning on a state share for the capital costs of a light rail transit project, unless funds are made available by law. History shows the state's 10 percent share has leveraged significant economic benefit for the State of Minnesota. For example, the existing Green Line employed 5,500 construction workers over the years that generated $256 million worth of payroll. These workers came from 61 Minnesota counties and brought their paychecks home to main street Minnesota. Since construction began on the Green Line in 2010, there has been $5.1 billion worth of development put in the ground and announced within 1/2 mile of the 23 Green Line stations, $2.6 billion near the five downtown Minneapolis stations, and $2.5 billion near stations on University Avenue and in downtown Saint Paul.

- **Article 3, Section 118** requires the Metropolitan Council to pay for a duplicative "vibration susceptibility" analysis for a select group of private property owners along the Southwest Light Rail Transit project. The study is estimated at over $200,000. A vibration and ground-borne noise assessment was completed for the Final Environmental Impact Statement (FEIS) and the FTA determined that the analysis is adequate. The Council is taking significant measures to minimize impacts from vibration during construction by: (1) Conducting pre- and post-construction inspections of the CI facility; (2) Limiting construction vibration to 0.5 in/sec and monitoring vibration during construction; (3) Implementing a geotechnical monitoring program during construction, including developing a baseline 30 days in advance of construction; (4) Performing tests for significant vibration-generating equipment prior to commencing construction activities; and (5) Using press-in piling construction methods to minimize vibration. The FEIS assessment did not identify any impacts from vibration during LRT operations. The assessment did identify impacts from ground-borne noise during operations. These impacts are addressed with the implementation of resilient fasteners through the length of the tunnel, which are common mitigation application that act as a cushion between the tracks and the tunnel structure.

- **Article 3, Section 124** repeals the provision establishing that 50 percent of net light rail transit operating costs come from state sources. The effect of this repealer is to shift the state's commitment to light rail operations unto CTIB or metro counties—counties that opted into a local option sales tax to supplement the state's contribution to a metro transit system, not supplant it.

The Metropolitan Council continues to support the Governor's proposal to provide a stable and reliable funding source for transit that supports long-term planning and allows for accelerated expansion of the entire system. The proposed ½ cent metro area sales tax would relieve the state of operating and capital costs while providing $3 billion over ten years for transit. By 2040, the population of the metropolitan region is expected to grow by

800,000, and 1 in 5 people will be 65 or older. To retain and attract young talent and adequately serve the region's residents in the coming years, we must provide an efficient and accessible transit system.

I am available to discuss these concerns with you and committee members at your convenience.

Regards,

Adam Duininck

Chair, Metropolitan Council

March 22, 2017

Senator Scott J. Newman, Chair
Senate Transportation Finance and Policy Committee
95 University Avenue W., Room 3105
St. Paul, MN 55155

Dear Senator Newman and Members of the Senate Transportation Finance and Policy Committee:

In advance of your committee mark-up of SF 1060, I would like to share with you my concerns about the bill regarding metropolitan area transit.

The funding provided in SF 1060 will leave an approximately $65 million budget shortfall in the FY2018-2019 biennium. Facing this shortfall, Metro Transit will be forced to cut service and increase fares. Even with a fare increase of 25 cents, we estimate that SF 1060 will force Metro Transit to cut regular route service by nearly 17 percent by January 1, 2018. The forced service cuts and fare increases will result in at least a 17 percent loss in ridership.

While SF 1060 retains the base general fund appropriation for the Metropolitan Council, this level of funding does not address the growing costs of Metro Mobility. Metro Mobility is federally-mandated ADA service that also has a legislatively established service footprint beyond ADA requirements. Under the American with Disabilities Act and state law, Metro Mobility cannot refuse rides to qualified riders. While Metro Mobility has been rated as one of the most efficient services of its type in the nation, the service is still very expensive, with an average trip subsidy of over $23 per ride.

As I shared with your committee on February 1, 2017, Metro Mobility service demand is growing about 8 percent annually. This demand, coupled with inflation, means that the cost of Metro Mobility results in a $24 million shortfall for metropolitan area transit in the FY2018-2019 biennium. When the service exhausts its source of state funding in 2019, Metro Transit will be forced to cut regular bus service even further to continue funding Metro Mobility. This occurs because the mandated Metro Mobility service area cannot be reduced to federally-mandated service levels due to the legislatively-imposed footprint.

Additionally, I have some concerns regarding the policy provisions in Article 5.

Article 5, Section 1 would allow metropolitan cities and towns to apply for replacement service provider assistance. As noted by the 2011 Office of the Legislative Auditor's Report on transit which recommended that some out-out providers consolidate, adding to the number of providers may lead to redundancies and inefficiencies.

Article 5, Section 2 ends the state's commitment to fund 50 percent of operation expenses for future light rail transit lines. The Metropolitan Council and our partners on the Southwest Light Rail Transit and Bottineau Light Rail Transit projects have relied on state law as the projects were developed over the course of several years, which provides that the state will pay for 50 percent of light rails operating costs after federal money and fares are used. Eliminating this commitment jeopardizes the project's future, and this has real impacts on the state. For Southwest, a $700 million civil construction package has been put out for bid on the project. This investment will bring federal dollars back into the state, and help the region remain competitive with peer regions in attracting talent. The project will create contracting opportunities for businesses and thousands of jobs for residents across the state, resulting in $350 million in payroll.

Article 5, Section 3 creates a Metro Mobility Enhancement Task Force. While the Metropolitan Council welcomes innovative ideas to address the impacts of growing Metro Mobility demand, the Council has some concerns with the make-up of the task force that we would like to work on with the committee as the bill moves forward. Specifically, we believe it is important that the task force members have knowledge of paratransit service and applicable laws. Additionally, there are potential conflict of interest issues with providers of transportation network companies serving on the task force that would advising on the topic of the Metro Mobility program partnering with those companies.

I continue to support the Governor's proposal to provide a stable and reliable funding source for transit that supports long-term planning and allows for accelerated expansion of the entire system. The proposed ½ cent metro area sales tax would relieve the state of operating and capital costs while providing $3 billion over ten years for transit. By 2040, the population of the metropolitan region is expected to grow by 800,000, and 1 in 5 people will be 65 or older. To retain and attract young talent and adequately serve the region's residents in the coming years, we must provide an efficient and accessible transit system.

I am available to discuss these concerns with you and committee members at your convenience.

Regards,

Adam Duininck
Chair, Metropolitan Council

MINNESOTA DEPARTMENT OF PUBLIC SAFETY

Office of the Commissioner

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Alcohol and Gambling Enforcement
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Driver and Vehicle Services
Emergency Communication Networks
Homeland Security and Emergency Management
Minnesota State Patrol
Office of Communications
Office of Justice Programs
Office of Pipeline Safety
Office of Traffic Safety
State Fire Marshal

April 7, 2017

Chair Paul Torkelson
House Transportation Finance Committee
381 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155

Chair Scott J. Newman
Senate Transportation Finance and Policy Committee
95 University Avenue West, Room 3105
St. Paul, MN 55155

Dear Chairs Representative Torkelson and Senator Newman,

Thank you for your ongoing commitment to public safety, a core function of state government and the mission of our agency.

As we have discussed with you and testified to in your committees, there are key proposals in the Governor's budget that we strongly believe are critical for the ongoing work of the Department of Public Safety.

Thank you for supporting our requests for ongoing maintenance of our driver license testing system; support for the ongoing maintenance of the statutorily required crash record system; and the Minnesota State Patrol helicopter in one or both bills.

We also thank you for your support of the public safety officer survivor benefit program, officer health benefits, and the soft body armor reimbursements.

Unfortunately, there are two key investments that are not included in either House or Senate bill.

- **Ongoing MNLARS Operation Funding** to support the ongoing operation, maintenance, and enhancement of the system, which is the expectation of our stakeholders and the legislature.
- **Funding to support the current operations at current levels in the Department of Public Safety.**

Without full funding of these critically needed proposals, services to local law enforcement agencies, stakeholders, and Minnesotans who rely on us to issue driver licenses and motor vehicle transactions will be significantly impacted. The Department respectfully requests that you and the committee fully fund both of these critical public safety needs. Additional information about these proposals is attached.

In addition, there are several policy provisions included in the House and/or Senate proposals that raise concerns for the Department.

- The inclusion of provisions to increase truck weights raises significant concerns about these trucks' ability to brake, creating unsafe conditions on Minnesota roads. More importantly, the language related to milk trucks eliminates the ability for the State Patrol to conduct civil weight enforcement on these trucks, which is a critical function to ensure safety and preserve Minnesota's transportation investments.
- The Department appreciates the Committee's support of the Minnesota State Patrol's Trooper Academy and our efforts regarding recruitment. The language in the House proposal allows for an increase in cadet wages, but differentiates between our Law Enforcement Training Opportunity program (80 percent of base salary) and traditional cadets (100 percent base salary). The Department prefers that all cadets be treated equally because all cadets meet POST eligibility requirements by the start of an Academy and it will also assist in our recruiting efforts.

The Department remains committed to working with the Transportation Conference Committee to ensure that the Department can continue to meet the needs and expectations of all Minnesotans.

Sincerely,

Ramona L Dohman

Commissioner Ramona L. Dohman

There are two key investments critical to the Department and the services we provide that were not funded in totality in either bill.

DVS	MNLARS Operation Fee	$16 million/biennium (ongoing $1 fee)

Ongoing MNLARS Operation Funding: The Department of Public Safety is seeking a stable, ongoing funding source for the MNLARS system being completed for all driver and motor vehicle transactions in the state of Minnesota. The MNLARS system replaces the over 30 year old legacy system which was subject to critical operating and security errors. A fee that expired on June 30, 2016 created the budget for development of the new system. The Department seeks to reestablish the $1 fee on certain driver and vehicle transactions to support the ongoing operation, maintenance, and enhancement of the system, which is the expectation of our stakeholders and the legislature.

The Department of Public Safety began to roll out MNLARS in 2016. No new funds are being collected or requested for development of the system. This operation request is for an ongoing funding source to maintain the system, without which the Department would be limited in its ability for future enhancements requested by stakeholders and the legislature. If an ongoing funding source is not secured and legislative changes that require programming are passed - including the numerous policy provisions in this bill - the Department would have to use MNLARS development dollars to make those changes, leaving the entire project in jeopardy. The Department believes this ongoing funding source is critical for a key backbone system on which the state relies to issue all of the millions of driver licenses and motor vehicle transactions for Minnesotans.

While the Senate did include ongoing funding source for the MNLARS system, the House proposal funded MNLARS operation for one year with funds from the Driver and Vehicle Services Special Revenue Account. This is concerning because ongoing funding is needed for maintenance and support and to fund future enhancements and programming changes. For example, several pieces of legislation being heard this year require funding from these Special Revenue accounts, including provisions contained in this bill and in both the House and Senate REAL ID proposals. The Department is concerned that those accounts cannot support all of those requests in totality.

DPS	Operational Increase	$5.87 million (FY 18)/ $12.22 million (FY 19)

Operational Increase: The Governor included funding in his budget proposal to support the current operations at current levels in the Department of Public Safety. Neither the House nor Senate proposals fully fund this request. Funding for the agency has not kept pace with rising costs, jeopardizing our ability to ensure the Department has enough staff and operating funds to adequately provide the Department's required services and support to all Minnesotans.

Without this funding, the Department will continue to cover these cost increases through additional vacancies and other cost saving measures; however, this will likely result in longer wait times for services, delays in projects, delays in inspections, increased turnaround times, and fewer Troopers on the road in addition to reducing the number of cadets at each State Patrol academy.

Thank you for including funding for the following proposals. These are critical investments needed by the Department to maintain service and meet statutory requirements.

State Patrol	**Helicopter**	**$920,000 (FY 18: one-time General Fund)** **$4.83 million (FY 18: one-time THF)**

State Patrol Helicopter: The Governor included in his budget a helicopter for the State Patrol. This proposal benefits the state of Minnesota and the State Patrol by updating the aviation fleet, making it safer, more reliable, and more efficient. The services provided by the State Patrol are not provided by any other entity or organization in Minnesota, making them critical for the state's public safety.

If this investment is not made, the State Patrol would only have one helicopter that could provide rescue and fire support services. When this helicopter is grounded for maintenance, the State Patrol would not be able to respond to requests for assistance from local agencies in critical times because the other helicopter (34 years old) can no longer provide those critical services. This is a key public safety investment.

OTS	**MNCrash System Maintenance**	**$940,000/biennium (ongoing)**

MNCrash System Maintenance: Under current statute, the Department is required to publish a summary and analysis of crash records, which informs policy, enforcement, and education decisions statewide. The Department used federal funds to improve the crash records system, which became fully functional for all stakeholders in January 2016. If ongoing funding is not secured, the Department would need to seek a statutory change to no longer provide this information since the current Office of Traffic Safety budget would not cover the cost.

DVS	**Automated Knowledge Test System Maintenance**	**$312,000/biennium (ongoing spending authority out of special revenue account)**

Ongoing Maintenance of the Driver License Testing System: The Department upgraded the antiquated automated knowledge testing system relied upon all individuals seeking a driver license in Minnesota. This is the system used by the Department to provide the driving knowledge test throughout the state.

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March 24, 2017

The Honorable Paul Torkelson
Chair, House Transportation Finance Committee
381 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155

Dear Representative Torkelson:

I write in strong opposition to language in HF 2020, the Omnibus Transportation bill, in Article 4, Section 2, starting at line 38.8, that credits revenue from the motor vehicle title transfer fee (MVTTF) to the Transportation Priorities Fund instead of the Environmental Fund starting in FY2020:

> Sec. 2. Minnesota Statutes 2016, section 115A.908, subdivision 2, is amended to read:
>
> Subd. 2. **Deposit of revenue.** Revenue collected under this section shall be credited to the environmental transportation priorities fund. 38.10
> **EFFECTIVE DATE.** This section is effective July 1, 2020, and applies for revenues collected on or after that day.

MVTTF provides a little over $10 million per year to the Environmental Fund. Such a transfer would result in a 10% reduction in available resources from the Environmental Fund, at the same time that the House Environment and Natural Resources Policy and Finance Committee has recommended a significant reduction to our base funding, and the Trump administration has proposed a 45% reduction in our federal grant resources from the EPA.

A 2015 legislative report showed these MVTTF funds support the work of 80 FTEs at MPCA focused on reducing not only air pollution impacts from automobiles, but also the environmental impacts from road and bridge construction and maintenance, automobile and vehicle use, and eventual vehicle disposal. That report can be found here: https://www.pca.state.mn.us/sites/default/files/lrp-gen-2sy15.pdf

Thank you for your consideration.

Sincerely,

John Linc Stine
Commissioner

cc: Stephanie Zawistowski
Anna Henderson

April 3, 2017

Representative Sarah Anderson, Chair
583 State Office Building
Saint Paul, MN 55155

Dear Chair Anderson:

As a follow up to the testimony I provided to the House State Government Finance Committee on March 27 and 28, I write to express my serious concerns regarding H.F. 691/ S.F. 605, the House omnibus state government budget bill.

H.F. 691 arbitrarily cuts the operating budgets of Minnesota Management and Budget (MMB) by approximately 23%. This across-the-board reduction is not a responsible way to fund MMB and is an approach that the Governor does not support. He has insisted that all proposed budget reductions identify the programs and services that the committee intends to eliminate.

Governor's Approach

Governor Dayton's budget is strategically focused on what each individual agency needs to provide services to Minnesotans. Instead of the wholesale agency cut approach of H.F. 691, the Governor has worked closely with commissioners to determine each agency's operating budget adjustment, starting with known, necessary costs.

The Governor's budget includes agency operating adjustments that recognize the expectation of Minnesotans that state government provide high-quality state services. He understands that maintaining services means covering expected cost growth in the next biennium. We have been thoughtful and strategic in putting together our budgets over the last several years. Instead of arbitrary budget cuts, we should be proud of the relatively lean state government Minnesota currently operates. In comparison with other states when measuring the number of state employees per capita, Minnesota ranks 35 out of 50 states, or 15th lowest, meaning we manage a lean workforce per the number of people served.

In addition, the Governor cautions that we must be aware of the increased uncertainty that the state budget faces this year. Minnesotans see it every single day in the news coming out of Washington. Whether it is cuts to state grant programs or uncertainty over future economic growth, our state leaders must recognize the importance of budgeting strategically. Governor Dayton has been clear that his number one priority this session is maintaining fiscal responsibility. His proposal invests in the services that Minnesotans deserve while saving $200 million for the high degree of uncertainty we face today.

Management and Budget Reductions

H.F. 691arbitrarily cuts the base budget of Minnesota Management and Budget by 23%. MMB already operates an efficient and lean agency. The Governor has asked for additional investments to keep the best talent and highest level of service the department can provide. H.F. 691 actually cuts the Governor's proposed budget by 29% without including the SWIFT IT upgrade and the IT program for talent management.
But under the cuts of this committee's budget proposal, MMB will be forced to reduce the quality of services and lay off critical employees. For context, a 23% budget cut to MMB is the equivalent of eliminating our entire debt management team, our economic analysis team, the entire budget staff, and a large portion of the accounting services staff. These employees are responsible for the sale and issuance of state bonds, the calculation and analysis of the biennial state economic forecast that the legislature relies upon, the preparation, coordination and execution of the biennial and supplemental operating budgets, and the annual preparation, coordination, and execution of the capital budget, the maintenance of the state's general books of account, the administration of the statewide accounting system, the central disbursements system, the financial records, and the state of Minnesota's banking and cash management activities.

MMB has about 240 employees, but our responsibilities and scope of work are increasingly complex. The number of employees at MMB is near its lowest point in the past ten years, yet the statutorily required work has increased and the number of people served has grown significantly. For a comparison, in 2011, MMB had about 20% more employees than today – and at a time when the population of the state was 4% smaller. We are currently serving more Minnesotans with fewer employees. And I am proud at how efficiently and effectively we provide those services on an already lean budget.

MMB serves 55,000 people who work for the state, over 100 state agencies, boards and commissions, businesses that work with the state, Minnesota State Colleges and Universities, the Governor, the Judicial branch, and the Legislature.

In cutting MMB's budget by 23%, the Legislature must consider the agency's role in the operation of state government and the increasing demands for its critical services. Governor Dayton requested that all legislative proposals to cut agency budgets identify what programs and services you wish to see eliminated. As I testified to the duties of MMB, consider which one of the services below that you would take responsibility for cutting.

Our responsibilities include:

- Preparation, coordination and execution of the biennial and supplemental budgets. Cuts to the budget staff could mean delays in implementing the state budget and difficulty retaining quality staff to analyze the state's finances.

- Annual preparation, coordination, and execution of the capital budget and sale and issuance of state general obligation bonds, appropriation bonds and other public financing. We currently oversee over $8 billion in state public debt. Cuts to the debt management team could impact our bond rating and starting capital projects in an efficient way.

- Maintenance of general books of account, the administration of the statewide accounting system, the central disbursements system, financial records of the state, as well as banking and cash management activities. Cuts to the accounting division could mean slower payments to vendors, leading to difficulty working with private business.

- Preparation and delivery to the Governor and Legislature: twice a year budget and economic forecasts, quarterly economic updates, and monthly revenue memos. Cuts to these services would directly impact the quality of information provided to the Legislature to make policy and budget decisions.

- Administration of human resource functions across state government, including maintenance of the state's online payroll, human resources, and benefits system. Cuts to these services would impact the management of the 55,000 employees who work for the state. Those of us who have experience in the private sector know that to run an effective, efficient organization, you must provide reliable services to your most important resource: your employees.

- Coordination and planning to ensure agencies can continue providing priority services in the event of weather emergencies, disasters, or a shutdown due to the inability of the Legislature to pass a budget on time.

Funding for Statewide Accounting and Financial System Upgrade

No funding is provided in H.F. 691 for critical upgrades to increase security, support disaster planning and recovery, and ensure optimal operation of the IT systems that support enterprise operations. MMB's request included a critical update to our state's accounting, financial, and procurement IT system, SWIFT (Statewide Integrated Financial Tools). MMB uses this system for paying individuals, businesses, nonprofit organizations, school districts, cities and counties. It bills customers for money due to the state. It is the official system of record for the state's financial affairs and is critical for supporting priority services to Minnesotans.

The Governor proposed $13.9 million in FY 2018 to increase security and ensure optimal operation of the IT systems. We have not upgraded this system since we purchased it five years ago and the version we are on will no longer be supported by the company after January 2018. The upgrade will also make our systems more user friendly for people with disabilities.

Compliance and Risk Management

MMB's budget request of $860,000 in FY 2018 and $866,000 in FY 2019 for nine new positions to mitigate risk across the enterprise is also not funded in H.F. 691.

The funding would create several vital positions needed to more effectively provide the budget services the state requires including:

- One economist to back-up the sole staffer who forecasts income tax, bringing the economic staff total to four people.
- Two staff dedicated to enterprise FLSA classification work, related to recent changes in federal law. This work includes auditing 1,800 job classes and the positions within them. Additional work required includes rewriting class specifications and creating a system for monitoring employees with multiple appointments and part-time work to ensure compliance with federal law.
- 1.5 FTEs to provide back up to critical payroll functions such as employer tax reporting. This work is currently completed by one individual.
- One FTE to assist the four-member Debt Management Division with regulatory compliance measures related to the use of proceeds and bond financed property. Adding a fifth FTE to this small division will allow for better allocated resources in all of the current, critical functions.
- An Office of Accessibility is created with the addition of three new FTEs to coordinate, develop strategy, and provide direction to the enterprise on all facets of accessibility, from compliance to creating an inclusive and accessible environment for employees, customers, and the general public. The office would support the mission by creating materials, and providing training and communications to the enterprise.

Training and Development

MMB's budget request for $15 million in 2018 to implement a new Talent Management System was also not funded in H.F. 691. In our effort to make the state an employer of choice, and in recognition of the tight labor market, best practices in the private sector, and wave of retirements we are facing, we recognize we must do everything we can to recruit, attract, and keep the very best talent. A key element of that is to improve the delivery of employee training and development so that all employees receive consistent, high quality training and development. The proposed new system will deliver these services in one place for state employees.

Fewer Resources - Increased Mandates

This budget bill cuts 23% from MMB's operating budget while adding new responsibilities. H.F. 691 adds new reporting requirements for gainsharing, base budgeting, inter-agency transfers, and tracking of full time equivalents across the enterprise. Even though the bill eliminates significant resources for all state agencies, the bill adds at least six new reporting mandates as well as other restrictions that would require new calculation, implementation, and oversight.

Base Budget Report and Intra-agency Transfer Reporting

One of these unfunded mandates is a new base budget report for MMB. The budget materials presented to the Legislature have statutory requirements that the agency fulfills. This new reporting mandate will increase work, reduce efficiencies, and provide little insight or direction for the Legislature. Combined with the bill's reduction to the Budget Division funding, this requirement is not workable. The same concerns should be applied to the increased bureaucracy of reporting intra-agency transfers. Legislators and legislative staff already have access to this information.

Collective Bargaining Agreements - Affirmative Vote Required to Implement Contracts

H.F. 691 includes a provision that requires affirmative approval of state employee collective bargaining agreements by the Subcommittee on Employee Relations (SER) when the Legislature is not in session, pending approval by the full Legislature.

The current process has been in place for over 20 years and has worked well. It allows MMB to process the general adjustments in a timely manner – which are normally effective July 1 of each year. Employees should receive wage adjustments annually and this process assists with retention and recruitment, particularly in the tight labor market we have now.

Health and dental insurance changes could be delayed, leading to uncertainty for members and health plans. The plan year begins January 1, but open enrollment is normally held in late October to early November. If interim approval is not given, open enrollment will be delayed, likely beyond the beginning of the plan year. Thus, any improvements to the plan or cost savings realized will also be delayed.

We must be able to adequately address the wage and insurance needs of our state workforce efficiently. H.F. 691 makes this process more cumbersome and is unnecessary.

Elimination of Statewide Executive Recruiter

The bill restricts the state's ability to recruit a diverse workforce. Statute requires MMB to maintain an active recruiting program designed to attract qualified workers to serve the people of Minnesota. Special emphasis is given to recruitment of veterans and protected group members to achieve a balanced work force. *M.S.43A.09*

Realizing the value of a diverse and inclusive work culture, we are tracking our progress with disparate hires. Our data show that persons with disabilities make up 6.3% of the state's workforce, 7.5% are veterans, 11.5% are persons who identify as racial or ethnic minorities, and 49.9% are women. To effectively provide services, we must keep pace with the changing demographics of the entire state. State government also faces a tightening labor market over the next two decades due to retirements and fewer people entering the labor force. Currently there are 97,000 available jobs and only 120,000 job seekers in Minnesota. Creating a talent pipeline is crucial to the state's long term success and the services we offer our citizens.

By cutting funding for Statewide Executive Recruiting, this budget would reverse the progress we have already made in developing recruiting and retention strategies that would prevent skill shortages, retain a diverse workforce, and promote the State of Minnesota as an employer of choice.

Gainsharing

H.F. 691 creates additional requirements under the gainsharing statute in addition to the Achievement Awards program that is already successfully administered by the state. This provision does not provide the necessary funding to set-up and administer a new, likely unmanageable program. Not only are the new requirements unfunded, the spreadsheet claims that the new gainsharing program will provide $1 million in revenue over the next biennium. This assumption of savings arbitrarily reduces agency budgets if the actual savings are not realized. The bill does not recognize the realities that not all savings are funded within the General Fund and no clarification is provided in how to realistically administer the program.

Continuing Appropriations

The bill provides that if a budget is not passed into law upon the end of the previous budget, agencies and programs will continue at 95% of the previous appropriation. It is the duty of the Legislature to appropriate funds for each biennium and, by planning for a state government shutdown in advance, this provision is an abdication of the Legislature's core responsibility.

Limit on Number of Full Time Equivalents

H.F. 691 places an arbitrary limit on the number of full time equivalents (FTE) the state may employ. This is not a strategic or deliberate strategy to run an organization. If this bill became law, the state would be required to lay off thousands of people on July 1. Although the workforce is reduced by this bill, all of the statutory requirements for public safety, educational programs, financial oversight, veterans programs, and road construction that the Legislature mandated would remain. We have been told regularly that the state should run more like a private-sector company. No private company that I know of, and I have run one, arbitrarily places a number on how many employees it requires. Rather, it determines the products or services needed or required and then determines how many professionals are needed to properly and efficiently execute those services. Moreover, the ability to bring on staff in times of emergency and crisis (a pandemic, for example) is critical, and is a core expectation Minnesotans have of us. Your FTE limit would not allow for necessary personnel during an emergency.

Opt Out of Insurance Savings

The bill mandates a reduction to state agencies for savings that could be realized by allowing employees to opt out of state health insurance benefits if they have other coverage. We support the underlying provision of allowing an opt out for state employees, however we are concerned about the prescriptive nature of the language in this section. If enough employees choose not to opt out of the program and the insurance cost savings are not realized to the agency, MMB is still required to reduce agency budgets. Furthermore, the provision applies to the executive branch and the constitutional officers, but not to 40% of employees covered by the Statewide Employee Group Insurance Program (SEGIP) including the Legislative Branch, Judicial Branch, or the Minnesota State Colleges and Universities system. Uncertainty about how much savings will be realized, combined with the challenges of allocating those savings to agencies, makes it a financially flawed proposition to try to capture these savings in advance through reductions in appropriations.

State Employee Group Insurance Program (SEGIP) Efficiencies

The Legislature routinely asks us to bring forward better ways to manage the state's resources and find new methods to be more efficient. For these reasons, we were disappointed that the proposed efficiencies to manage SEGIP were not included in this budget bill as they would save the program around $689,000 over the biennium and would assist us in keeping health care costs lower.

Limit on Overall Compensation

The bill places a limit on compensation changes to employees. This micro-management hinders recruiting and retaining high-talent individuals that the state relies on for specialized services. Again, I know of no private business that would operate in this manner. A limit on overall compensation changes is an imprudent infringement on the collective barging process. By capping the amount of employee compensation, this provision would essentially nullify collective bargaining.

The bill also limits any increases to employees covered by the Managerial Plan. These employees include corrections facilities directors, financial oversight experts like agency Chief Financial Officers, epidemiologists, nursing managers, technology security experts, pharmacists, and state patrol officers. The state, as an employer, needs to be competitive in wages and compensation in order to maintain a qualified workforce. This provision runs counter to that essential need.

Limit on Advertising

The bill places an arbitrary limit on agency advertising, whereby an agency's advertising budget may not exceed 90% of the amount the agency spent on advertising in 2016. Though all agencies seek efficiencies and cost-saving measures, this is not a strategic manner in which to operate any organization. As an example, MMB's advertising budget would be limited by the previous year, but the bill requires additional communications on the gainsharing program. The problem posed by this section would be even worse for some agencies that may need to communicate with the public on matter of public safety and emergencies but would be limited in doing so.

Minnesotans are hard-working, forward thinking people. They balance their budgets in an honest way while taking care of each other. Governor Dayton shares these values. His record of managing our state budget in a fiscally responsible way is clear. We have managed the state's finances well, and consequently we have resources today. We are facing new, and increased challenges. We must meet these challenges and provide solutions to real problems. Governor Dayton's budget recommends that we invest wisely and use our resources for the benefit of all Minnesotans.

H.F. 691 is not a responsible, transparent way to budget for our state agencies. It is designed to meet an arbitrary budget target, and it does so through arbitrary cuts, and accounting shifts. I ask the Legislature to seriously consider the straight-forward parameters on the budget process that Governor Dayton outlined in his letter to legislative leaders.

Sincerely,

Myron Frans
Commissioner

cc: Representative Sheldon Johnson

MANAGEMENT AND BUDGET

March 28, 2017

Senator Mary Kiffmeyer, Chair
Senate State Government Finance and Election Policy Committee
3103 Minnesota Senate Building
Saint Paul, MN 55155

Dear Senator Kiffmeyer:

Thank you for the opportunity to testify on S.F. 605, the omnibus state government finance and policy bill in your committee on March 21. Please allow me the opportunity to follow up on that testimony with this letter with issues that are of concern to the administration and Minnesota Management and Budget in particular.

We must all be aware of the uncertainty that the state budget faces this year. Minnesotans see it every day in the news coming out of Washington. From cuts to state grant programs to uncertainty over future economic growth, our state leaders must recognize the importance of budgeting strategically to protect against these risks. Governor Dayton has been clear that his number one priority this session is maintaining fiscal responsibility. His proposal invests in the services that Minnesotans need while saving $200 million for the high degree of uncertainty we face today.

Across-the-Board Cuts

S.F. 605 cuts the operating budgets of state agencies from 4% to 7.5%. This arbitrary reduction of agency budgets is an approach that the Governor does not support. He has insisted that all proposed budget reductions identify the programs and services that will be cut. This budget bill does not provide that clarity.

The Governor's budget proposal is strategically focused on the needs of each individual agency. Instead of the wholesale agency cut approach of S.F. 605, the Governor has worked closely with commissioners to determine what each agency's operating budget needs to maintain current services, starting with known, necessary costs and anticipated costs, such as employer pension costs to cover the Governor's recommendation to improve the funding status of our pension plans.

The Governor's budget includes agency operating adjustments that recognize the expectation of Minnesotans that state government provide high-quality state services. He understands that maintaining services means covering expected cost growth in the next biennium. We have been thoughtful and strategic in putting together our budgets over the last several years. Instead of arbitrary budget cuts, we should be proud of the relatively lean state government Minnesota currently operates. In comparison with other states when measuring the number of state employees per capita, Minnesota ranks 35 out of 50 states, or 15th lowest – meaning we manage a lean workforce per the number of people served.

Minnesota Management and Budget Cuts

S.F. 605 indiscriminately cuts the base budget of Minnesota Management and Budget by 7.5%. MMB already operates an efficient and lean agency. The Governor has asked for additional investments to keep the best talent and highest level of service the department can provide. S.F. 605 actually cuts the Governor's proposed budget by 15% without including the SWIFT IT upgrade and the IT program for talent management.

Under the cuts of your committee's budget proposal, MMB will be forced to reduce the quality of services and cut critical employees. For context, a 7.5% budget cut to MMB is equivalent to eliminating our entire debt management team, our economic analysis team, and half of our budget team. These employees are responsible for the sale and issuance of state bonds that cities and counties across the state rely upon; the calculation and analysis of the biennial state economic forecast that the legislature relies upon; the preparation, coordination and execution of the biennial and supplemental operating budgets; and the annual preparation, coordination, and execution of the capital budget that we all rely upon.

As Commissioner of MMB, I am the state's chief financial officer, chief accounting officer, state controller, treasurer, chief human resource officer, and chief negotiator for collective bargaining on behalf of the state with our employee bargaining units.

In considering the reduction of the agency's base budget by 7.5%, the committee must consider MMB's role in the operation of the state government and the increasing demands for its critical services.

To give a specific example, the bill reduces the base appropriation for the Budget Division by $548,000, yet forms a task force to study the fiscal note process. This is equal to approximately 5 budget employees. Legislators are often frustrated by the fiscal note process but laying off 5 budget staff employees will undoubtedly slow the fiscal note work even further.

MMB has about 240 employees, but our responsibilities and scope of work are increasingly extensive and complex. The number of employees at MMB is near its lowest point in the past ten years, yet the statutorily required work has increased and the number of people served has grown significantly. For a comparison, in 2011, MMB had approximately 305 employees – about 20% more than today. At that time, the state's population was 5.3 million. Today, MMB's 240 employees serve an estimated population of 5.5 million, 200,000 more people, which is an increase of about 4%.

We serve the people of Minnesota, 55,000 state employees, over 100 state agencies, boards and commissions, over 300 businesses that work with the state, Minnesota State Colleges and Universities, the Governor, the Judicial branch, and the Legislature. The budget reduction included in S.F. 605 will have a negative impact on our clients and the people of Minnesota. Potential consequences could include increased risk in the state's financial accounting, less oversight and management of public debt, slower delivery of fiscal notes to the legislature, and a less competitive and efficient workforce.

The positive impact our small agency has on the state is enormous. And I'm so proud of the work we accomplish. We take our responsibilities seriously and everything we do is for the betterment of all Minnesotans.

Lack of Appropriations

Unfortunately, the bill does not fund the Governor's proposed change items for enterprise security and risk management, operating increases, compliance and risk management efforts, or a talent management system. These proposed change items are necessary to maintain current services and ensure state government as a whole can function in an effective and efficient manner.

As we have testified before your committee, the state's accounting system that was launched in 2011, will no longer be supported as of 2018. Maintenance to the system is a matter of data protection and accounting accuracy. Additional resources are also needed to reduce risk associated with economic forecasting, debt management and accounting services. Finally, the Governor has requested a statewide system to better train our employees and manage the state's human resources. We appreciate your consideration on these important initiatives.

State Employee Group Insurance Program (SEGIP) Efficiencies

The Legislature routinely asks us to bring forward better ways to manage the state's resources and find new methods to be more efficient. During our agency presentation in committee, members expressed support for the SEGIP efficiency proposals. For these reasons, we were surprised they were not included in your budget bill as they would save the program around $689,000 over the biennium and will help assist us in keeping health care costs lower.

Legislative Appropriations Language: Lease Payments

As Commissioner Massman testified in committee, the elimination of rider language to pay Senate lease costs puts the financing used to pay for the construction of the Minnesota Senate Building at risk. The financing documents specifically state that the debt incurred to pay for the construction can only be repaid from a source <u>specifically</u> <u>appropriated</u> for that purpose. Failure to restore the language could create an event of non-appropriation, put the state in a default position and risk a downgrade to the state's credit rating.

Executive Recruiter Reporting Requirement

This new reporting requirement is an unnecessary addition of bureaucracy, an unneeded mandate, and draws time away from more important work such as recruiting a talented workforce in a tight labor market where the unemployment rate in our state is less than 4%. The general workforce in the State of Minnesota is shrinking, as demonstrated with approximately a third (15,000) of state employees who are eligible to retire today. Resources are already strained. This information is already available in the accounting system. We should be working together to find more efficiencies and eliminating excessive reporting requirements.

Appropriations Limited

Article 2, section 26 is new language that appears to have a goal of limiting negotiated employee compensation unless it is within an approved spending plan. Negotiations with employee bargaining units cannot commence until we have the previous year's data on health insurance costs and updated projections for future cost growth. We do not receive this information until late April, which is one of the main reasons we cannot finish contract negotiations until June or July, after the legislative session has concluded. Under this provision, an administration would need to know in January when a Governor submits a budget, what the outcome of the negotiation in June will be. If a Governor added additional resource requests to cover future potential costs on a contract, the administration would be at a strategic disadvantage in negotiations with the bargaining units as they would know what the Legislature has appropriated for this purpose.

Additionally, while this provision attempts to micromanage the compensation amounts, it is actually redundant. Every administration is constrained by what is appropriated by the Legislature. Agencies cannot spend more than is appropriated.

Opt Out of Insurance Savings

Article 2, section 36 of the bill mandates a reduction to state agencies for savings that could be realized by allowing employees to opt out of state health insurance benefits if they have other coverage. We are concerned about the prescriptive nature of the language in this section. If employees choose not to opt out of the program, and the insurance cost savings are not realized to the agency, MMB is still required to reduce agency budgets. Furthermore, the provision applies to the executive branch and the constitutional officers, but not the Legislative Branch, Judicial Branch, or the Minnesota State Colleges and Universities system, which together account for about 40 percent of employees covered by SEGIP. Uncertainty about how much savings will be realized, combined with the challenges of allocating those savings to agencies, makes it a risky proposition to try to capture these savings in advances through reductions in appropriations.

Racing Commission operations

Article 2, section 29 allows for the continuation of services for the Racing Commission in the event there is no appropriation made by the Legislature that is signed in to law. MMB has traditionally opposed these “lights on” provisions. It is the Legislature’s constitutional responsibility to pass appropriations bills that fund state government operations and programs. In the past, we have petitioned the court to continue operations that relate to life and health safety of the people of Minnesota. In the past, the Racing Commission work has not fallen within that category. We understand that the Racing Commission has its own dedicated funding stream and therefore would appreciate this authority. However, if the Legislature wants to relinquish this responsibility, then all of the programs in state government that have dedicated funding streams should also be included in this conversation.

Advisory task force on fiscal notes

MMB is always interested in improving our processes and systems. We believe the 2012 Office of Legislative Auditor report on fiscal notes accurately describes the process and areas that could be improved. MMB has implemented all of the changes recommended by the OLA. We would suggest that before a new task force is formed, the Legislature implement the OLA recommendations. Though we are not convinced a task force on fiscal notes will reveal any additional insight in to the fiscal note process, we would request that any task force be equally balanced between the Legislative Branch and the Executive Branch since we are partners in this work.

Gainsharing

Thank you for working with MMB staff on the gainsharing portion of the bill. The current version contained in the bill is much more workable than the original bill and addresses several of the concerns we testified to in your committee.

I look forward to working with you on the state's budget as the session progresses and on your bill as it makes its way through the legislative process. As always, please let me know if you have questions or concerns.

Sincerely,

Myron Frans
Commissioner

cc: Senator Jim Carlson

DEPARTMENT OF ADMINISTRATION

March 23, 2017

Senator Mary Kiffmeyer
Chair, State Government Finance and Policy and Elections Committee
95 University Avenue West
Minnesota Senate Building, Room 3103
Saint Paul, MN 55155

Dear Chair Kiffmeyer,

Thank you for the opportunity to testify before the Senate State Government Finance and Policy and Elections Committee regarding SF 605, the Omnibus State Government Finance bill. I want to reiterate my concerns regarding SF 605, and again urge the State Senate to fund Governor Dayton's budget recommendations for the Department of Administration.

The State of Minnesota is in the strongest financial position that it has been in for well over a decade. The February State budget forecast revealed a $1.65 billion surplus, a structurally balanced budget, and the largest cash and budget reserves on record.

Our State's strong financial position is the result of a robust Minnesota economy, an educated and productive workforce, smart public investments, and sound State fiscal management under Governor Dayton's leadership. Independent observers such as financial rating agencies, Governing Magazine, and US News and World Report - to name just a few in the past year - have all rated Minnesota as an extremely well run State.

Now is the time for Minnesota to remain committed to sound fiscal management and to strengthen, not diminish, the programs and practices that make Minnesota one of the best run States in the country.

SF 605 reflects a 27 percent budget cut from continuation of current Admin operations, and a disproportionately large 18 percent reduction in Admin's general fund operating budget. This legislation, if enacted, would eliminate at least 26 employees, or over 30 percent of Admin's general fund workforce. Such cuts would be unwarranted given a $1.65 billion surplus, and would greatly jeopardize our ability to deliver services that our agency partners and Minnesotans expect.

Governor Dayton's budget recommendations maintain sound fiscal management by making modest, prudent investments to continue current operations, modernize crucial information technology systems, and address critical cybersecurity issues. I urge the Senate to fund Admin's operating budget adjustments for the General Fund, e-Procurement technology, Census2020, and In-Lieu-of-Rent appropriations.

- **$1.561M Operating Budget Adjustment:** Failing to fund Governor Dayton's recommended operating budget adjustment will result in less oversight of State construction projects, less oversight of State purchasing contracts and State agency purchasing decisions, less negotiated contract savings, and even less assistance with data practice laws and demographic data despite Minnesotans wanting more help from those experts.

- **$10M Investment in an e-Procurement System:** The State spends more than $2.5B for goods and services annually. By comparison, the Governor recommends $10M to bring the information technology systems and processes used to make those purchases more in-line with those of other states and the private sector. Minnesotans expect an Amazon experience but instead we are delivering something akin to a Montgomery Ward mail order catalogue by relying on paper contracts and at least 40 unique IT sub-systems to route purchasing requisitions, bid solicitations, purchase orders, and payments across State government. State governments with modern procurement capabilities reduce costs for goods and services, increase productivity of staff, make more informed sourcing decisions, and provide greater transparency into spending for legislators and the public.

- **$380K to Provide Technical Assistance for Census2020:** Census2020 is under way right now; this session is the critical time to fund the necessary technical support to maximize Minnesota's Census count and support the likelihood that Minnesota maintains eight Congressional districts. For each Minnesotan not counted, the state loses an estimated $1,400 in federal funds per person, per year. Those are tax dollars paid by Minnesota taxpayers that will not come back to Minnesota to support our residents and our communities.

- **$2.449M Increase to In-Lieu-of-Rent Appropriation:** Even though the paint has literally not yet dried on the Minnesota State Capitol restoration project, and some scaffolding is not yet down, SF 605 puts the State once again on a path of inadequately staffing and maintaining the State Capitol, Minnesota Senate Building (MSB), and State Office Building (SOB)—despite a taxpayer investment of over $400M in those three buildings in just the past four years. The ILR funding increase is needed to ensure proper care of the newly restored, historic Minnesota State Capitol, and to avoid reductions in building maintenance of Legislative space.

Rather than strengthening government effectiveness, SF 605 eliminates common sense programs that parallel best practices used in large private companies to ensure organizational efficiency. Those budget cuts are contrary to the notion that "government should operate more like a business" and, I believe, shortsighted because they will ultimately increase rather than decrease the cost of government. For example, SF 605:

- Eliminates the Office of Grants Management (OGM) while proposing Admin administer nearly $3M annually in State grants including two new grants, without any administrative funding to do so. Further, the office was created as a result of an Office of the Legislative Auditor program evaluation of grants to non-profit organizations that revealed a fragmented approach to grants management practices across State agencies. The grants policies developed and maintained by OGM are used by the Legislative Auditor as a standard against which agencies measured. The $130,000 annual appropriation for OGM is a bargain relative to its success with reducing the risk of financial loss due to misspending of State grant funds, inadequate controls, or less than optimal grant outcomes. Further, eliminating all funding while maintaining M.S. 16B.97 and 16B.98 gives the false impression that enterprise grants oversight is in place even though there will be no Admin staff to carry out those duties.

- Eliminates the Minnesota Office of Continuous Improvement (formerly known as LEAN), which was established in 2007 as part of Governor Pawlenty's Drive to Excellence initiative. Having a CI culture that empowers employees to perform better, and focuses on improving services to Minnesotans, is a win for everyone. CI services result in Minnesotans getting better outcomes at a lower cost. CI speeds up innovation, maximizes ROI for improvements, incorporates data-driven decision-making, and increases opportunities for radical improvements. Just last month state agencies celebrated the success of over 60 of the best continuous improvement projects for 2016; defunding this office will make State government less innovative and less efficient.

- Eliminates funding that supports MN's Olmstead Plan to ensure people with disabilities are living, learning, working, and enjoying life in the most integrated setting. Without this funding, Admin will no longer be able to support the Olmstead Subcabinet's Prevention of Abuse and Neglect Committee work to minimize the conditions that result in nearly 52,000 reports annually to the Minnesota Adult Abuse Reporting Center, and improve employment opportunities for people with developmental disabilities.

- Masks additional budget cuts that will be passed on to state agencies, or result in lower service levels, for mail services, accommodations for people with disabilities, and human resource and financial management services.

Perhaps most perplexing is the proposed elimination of funding for the Small Agency Resource Team (SmART) program, a particularly successful program that is widely recognized as a model for shared human resources and financial services aimed at saving money, reducing risk, and improving outcomes. With extremely small budgets, the overhead cost of administrative functions for small agencies, boards, and commissions is a much greater share of those entity's budget than for larger agencies. Providing a direct appropriation to Admin for the SmART services ensures that resources are in place to help the entities most in need, when they need it. This program should be expanded, not contracted.

Under SF 605, use of SmART would be optional for most small agencies, boards, and commissions. As SmART costs rise without a corresponding increase to their budgets, the many small agencies may choose not to use SmART. This change will hinder small agencies' ability to focus on their statutory mission, and it will reverse the progress that has made toward eliminating questionable spending and inappropriate HR practices.

Many of the above programs were put in place by previous Administrations, and continued by Governor Dayton, specifically to improve government outcomes and save money. Those programs should be retained and bolstered. Similarly, several other provisions in SF 605 would likely increase state agency IT costs and defund scheduled technology improvements at a time when significant increases in technology are needed to meet the expectations of Minnesotans, including:

- A requirement that funding for Cybersecurity come from the Odyssey Fund; this means that resources wisely set-aside by Admin to implement a document management, improve its website, and upgrade construction services project management tools will no longer be available for those purposes.

- A required $3.0M reduction for MN.IT that will diminish much needed IT staff essential to moving forward with IT projects at Admin and other agencies.

Finally, the current version of SF 605 eliminates rider language to the Senate appropriation that is needed to comply with bond financing covenants for the MSB. The debt issued to finance MSB construction clearly states that the debt can only be repaid from a source <u>specifically</u> <u>appropriated</u> for that purpose. Failure to restore the previous rider language could put the State in a default position.

I strongly encourage you to continue the State's sound fiscal management by funding operating and ILR budget adjustments for Admin, as well as making prudent investments in information technology and cybersecurity. I look forward to working with you to develop a budget that will meet the expectations of Minnesotans, and fully fund Governor Dayton's budget recommendations for the Department of Administration.

Sincerely,

Matthew J. Massman

Matt Massman
Commissioner, Department of Administration

c: Senate Finance Committee Members
Senator Jim Carlson
Representative Sarah Anderson
Representative Sheldon Johnson

March 30, 2017

Representative Sarah Anderson, Chair
House State Government Finance Committee
583 State Office Building
Saint Paul, MN 55155

Dear Representative Anderson:

I am writing to reiterate my concerns with HF 691, the Omnibus State Government Finance bill, to which I testified to earlier this week. And, I again urge the House of Representatives to fully fund Governor Dayton's budget recommendations for the Department of Administration.

The State of Minnesota is in a strong financial position. The February budget forecast revealed a $1.65 billion surplus, a structurally balanced budget, and the largest cash and budget reserves on record.

Independent observers such as financial rating agencies, Governing Magazine, and US News and World Report - to name just a few in the past year - have all rated Minnesota as an extremely well run state. These accolades reflect our State's tradition of supporting a robust Minnesota economy, an educated and productive workforce, and making smart public investments.

Now is the time to strengthen, not diminish, the programs and practices that make Minnesota one of the best run states in the country.

HF 691 reflects a **24 percent budget cut from continuation of current Admin operations**, and an 18 percent reduction in Admin's general fund base budget. This legislation, if enacted, **would eliminate 33% or 27.5FTE of Admin's general fund workforce** (FY2016). Such drastic cuts are unwarranted given a $1.65 billion surplus and will ultimately increase the cost of government by making state government operations less efficient.

Governor Dayton's budget recommendations maintain sound fiscal management by making modest, prudent investments to continue current operations, modernize crucial information technology systems, and address critical cybersecurity issues. I urge you to revise HF 691 to fund Admin's operating budget adjustments for the General Fund and In-Lieu-of-Rent appropriations, for e-Procurement technology, and for Census2020.

- **$1.561M Operating Budget Adjustment:** Failing to fund Governor Dayton's recommended operating budget for Admin will result in less oversight of state construction projects, less oversight of state purchasing contracts and state agency purchasing decisions, increased state costs, and even less assistance with data practice laws and demographic data despite Minnesotans requesting more help from those experts.

- **$10M Investment in an e-Procurement System:** Minnesotans expect an Amazon experience. But instead, we operate an overly complex, opaque and inefficient procurement system that relies on paper contracts and at least 40 unique IT sub-systems to route purchasing requisitions, bid solicitations, purchase orders, and payments across state government. Governor Dayton proposes $10 million to begin bringing the systems and processes used to buy nearly $2.5 billion of goods and services annually more in-line with procurement technology used by other states and the private sector. State governments with modern procurement capabilities reduce costs for goods and services, increase productivity of staff, make more informed sourcing decisions, and provide greater transparency into spending for legislators and the public.
- **$380K to Provide Technical Assistance for Census2020:** Census2020 is under way right now; this session is the critical time to fund the technical support needed to maximize Minnesota's Census count, and support Minnesota's bi-partisan effort to maintain eight Congressional districts. For each Minnesotan not counted, the state loses an estimated $1,400 in federal funds per person per year. Those are federal funds paid by Minnesota taxpayers that do not come back to support our residents or our communities when Minnesotans are undercounted.
- **$2.449M Increase to In Lieu of Rent Appropriation:** While the paint has literally not yet dried on the Minnesota State Capitol restoration project, and some scaffolding is not yet down, HF 691 puts the State once again on a path of inadequately staffing and maintaining the State Capitol, MSB, and SOB—despite a taxpayer investment of over $400M in those buildings in just the past four years. This funding request is needed to ensure proper care of the newly restored, historic Minnesota State Capitol and to avoid reductions in building maintenance of Legislative space.

A well-functioning organization must properly care for both its visible products and programs, as well as the behind the scenes work performed by central service agencies to ensure innovation, legal compliance, and efficiency. That is why Admin is continuously focused on how we can help state government operate better, and at a lower cost. Unfortunately, HF 691 would have a negative ROI by eliminating people and programs whose job it is to reduce the cost of government, and ensure Minnesotans experience the best value from government.

For example, HF 691 eliminates funding for the Office of Continuous Improvement, a program that is a best practice for large private sector companies. This office routinely helps state agencies reduce costs and increase value for Minnesotans by improving efficiency in state operations. The CI Office was established in 2007 as part of Governor Pawlenty's Drive to Excellence initiative. HF 691 inexplicably breaks a program that is working well for Minnesotans.

HF 691 also makes drastic cuts to all other Administration operations paid for with general fund resources. These cuts will cripple core services provided by Admin to all other state agencies including a 15.3% cut to Real Estate and Construction Services, a 15.3% cut to the Enterprise Real Property Program, and a 15.3% cut to the Office of State Procurement. Cutting division budgets will result in higher cost state government for the following reasons:

- The individuals working for Real Estate and Contstruction Services (RECS) are the construction and leasing experts for the entire enterprise. These staff routinely save the State money by negotiating better lease terms—including lower pricing, higher quality space, and greater landlord accountability—than would otherwise be the case. In just one recent example, one of our leasing agents saved a state agency a million dollars by negotiating better rates. That one transaction far exceeds the staff costs, and each RECS staff processes nearly 190 lease transactions annually. The expectation that Admin's centralized experts will continue to achieve such cost savings if the budget is cut by over 15% is not realistic, or prudent. Similarly, reducing funding for construction project management experts will increase costs as a result of longer project times, more change orders, and the greater likelihood that the final construction outcomes will be less than optimal.

- The Enterprise Real Property Program (ERPP), another program established by Governor Pawlenty, has greatly enhanced the ability of the 19 state agencies that own property to prioritize Asset Preservation needs and inform legislators regarding the $1.3B backlog in deferred maintenance. The ERPP replaced a fragmented set of property databases with an enterprise-wide solution that consistently tracks all state-owned properties. Rather than reducing funding for this program, there are many additional, high value functions ERPP could provide with additional resources.
- The Office of State Procurement is responsible for negotiating contracts for state agencies, and local governments that use our Cooperative Purchasing Program. This program has been recognized as one of the best in the country and, last biennium. In just the past two years, our contract negotiators avoided over $30 million in costs by reaching agreements with vendors for lower prices than were identified in bid solicitations. Again, the expectation of such efficiencies can continue if the budget is cut by 15% or more is not realistic. The expectation of such savings is our job, and it is already reflected in the state budget base. Cutting funding for these staff will increase state and local government costs due to less capacity to negotiate contract savings and minimize contract risk. Even more troubling, the reduced staff will further limit contract oversight, putting taxpayers at greater risk of costs related to contract disputes.
- While Section 39 attempts to safeguard agency services that are provided directly to the public, in fact HF 691 cuts Admin's citizen-facing services more than other Admin areas. Specifically, it makes a 25% cut to services such as responding to public data practices requests, Open Meeting law disputes, and requests for demographic analysis and other areas.

In addition, HF 691 cuts the the Small Agency Resource Team (SmART) program by 8.2%. The SmART program is a widely recognized success, and a model for shared human resources and financial services. The program saves money by providing HR, finance, and budget expertise that helps ensure state laws and processes are followed, by reducing risk, and by improving outcomes because the entities served can better focus on their core responsibilities. Providing a direct appropriation to Admin for the SmART ensures that the entities in need of services will receive those services, when they need them. This program should be expanded, not contracted.

SmART cuts are compounded by a 19.7% reduction to Admin's HR functions and 15.2% reduction in financial management services, a cut that will be felt internally, by Admin's SmART customers, and MMB who will experience greater workloads when SmART services are not provided.

Governor Dayton has been clear that budget bills should avoid new policy initiatives. Not only does HF 691 include many policy provisions, including significant changes to the state rulemaking process, it fails to include Governor Dayton's policy recommendations for Department of Administration, which are non-controversial and have no fiscal impact. I am particularly concerned with the following provisions:

- **Minnesota Senate Building Appropriation Language:** HF 691 does not include rider language for the Senate appropriation specifying that a portion of the appropriation is for the explicit purpose of paying lease payments necessary to meet MSB debt service commitments.
- **Appropriation Structure:** Article 1 of HF 691 creates an overly prescriptive appropriations structure that will inhibit our ability to make the best management decisions on behalf of Minnesotans, including being able to respond to emergencies, should they arise. Other examples of unncessary micro-management

are Admin's rider language requiring 10% reduction in OEP, and a provision preventing Admin from spending any resources on Continuous Improvement.

- **Article 2, Sec. 29 Change orders on state construction projects:** As I testified two years ago, the existing transparency and fiduciary safeguards required in Minn. Stat. 16B.31, subd. 2, and 16B.355 already provide legislative notice requirements and oversight safeguards. The proposed additional requirements are redundant.
- **Article 2, Sec. 30 Reduces administrative cost of Accommodation Fund from 15% to 5%:** This program is administered by STAR, Admin's federally funded program that helps all Minnesotans with disabilities gain access to and acquire the assistive technology they need to live, learn, work, and play. Reducing this cost would impact Admin's ability to ensure timely reimbursement for accommodations for employees and job applicants with disabilities.
- **Article 2, Sec. 31 Admin must monitor all Department of Commerce grants:** Admin does not have the subject matter expertise or staff capacity to effectively oversee Department of Commerce grants, which amount to over $150 million annually, or six times the amount of grants Admin currently administers. In 2015, we estimated it would cost Admin $1.5 million to oversee these grants.
- **Article 2, Sec. 32 requires a state agency to terminate a grant if the recipient is convicted of a criminal offense or is under investigation by the Federal, State or Local Law Enforcement.** The second provision of this section would require continual monitoring of all grants and could result in a grant being inappropriately canceled. HF 691 provides no resources to perform these additional responsibilities.

Finally, based on the discussion during committee mark-up on HF 691, I am concerned that the reductions in HF 691 are premised on the notion that FY2012-13 staffing levels reflected the optimal staffing level for Admin, and that a continuation of current staffing levels is not justified unless the work of Admin staff results in a demonstrable budget savings that can be itemized in budget tracking. The reality is that FY2012-13 staffing levels reflect the lowest Admin staffing levels in many years and, I believe, are below the level needed to provide optimal centralized shared-services to state agencies and Minnesotans. Further, the dedicated people who do work for Admin already deliver real cost savings for state government that are built into base budgets.

I strongly encourage you to continue the State's sound fiscal management by funding operating and ILR budget adjustments for Admin. I strongly encourage you to continue the State's sound fiscal management that has led to a structurally balanced budget we currently enjoy.

Sincerely,

Matthew J. Massman

Matthew J. Massman
Commissioner

cc: Representative Sheldon Johnson
House Ways and Means Committee Members
Senator Mary Kiffmeyer
Senator Jim Carlson

MINNESOTA IT SERVICES

March 31, 2017

Representative Sarah Anderson, Chair
House State Government Finance Committee
583 State Office Building
Saint Paul, MN 55155

Representative Anderson,

I write to express the concerns of the Office of MN.IT Services related to House File 691, the House's State Government Finance omnibus bill.

As the state agency charged with securing and protecting citizen data and ensuring the availability of state agency technology systems, we are particularly concerned that House File 691 provides no new funding to address immediate cybersecurity needs and cyber threats facing the state. The volume and sophistication of cyber-attacks targeting the State of Minnesota and other government and private sector organizations has grown exponentially in recent years. With so much of government functions and services reliant on IT systems, there is little risk of overstating the potential impact to state government of a catastrophic breach or takedown of state technology systems. These risks must be recognized in terms of their financial impact, their impact to ongoing delivery of critical government services, and their impact to the public's trust in their government. Once recognized, additional resources must be devoted to bolstering the State's cyber defenses by updating existing cybersecurity tools, procuring leading private sector cybersecurity services, and increasing staffing levels on the State's cybersecurity team.

In one sense, House File 691 aligns with the Governor's recommendations in the area of cybersecurity by requiring MN.IT to reduce the number of state datacenters from the current 27 down to six; however, the bill includes none of the roughly $14 million requested by MN.IT in order to accomplish this objective. Consolidating and reducing the State's current datacenter footprint down to a more manageable number is the only cost-effective route to ensuring more secure data center operations - a critical step in bolstering Minnesota's cybersecurity defenses. But without the funding required to carry out data center consolidation, the language in House File 691 amounts to an unfunded mandate with which MN.IT will be unable to comply. MN.IT has made significant progress on data center consolidation, reducing the number of state data centers from 49 in 2011 to the current number of 27 as funding was identified to support the effort. It is imperative that the pace of this consolidation be accelerated, however, and such an acceleration cannot occur without the Legislature devoting resources to the effort.

House File 691 also fails to fund any of the needed enhancements recommended by Governor Dayton to strengthen the State's enterprise cybersecurity program with updated tools, services and staff. As a result, no funding would be available for:

- Needed vendor services including denial of service attack protection, penetration testing, after-hours monitoring, and cybersecurity insurance;
- Advanced cybersecurity tools and their ongoing support; or,
- Cybersecurity staff needed to take action and address vulnerabilities based on the information those security tools provide.

House File 691 would also require MNIT to reduce enterprise services personnel costs by $3 million in the upcoming biennium. MNIT is planning for reduced personnel costs in the area of enterprise services in the upcoming biennium, but the amount in the bill exceeds those planned reductions. We are concerned that reductions of this level will reduce the quality of service we can provide to state agencies and reduce our ability to manage agencies' transition to consolidated services, particularly if none of the funding requested for data center consolidation is appropriated to enable the consolidation of hosting environments to a reduced footprint that could be managed effectively with fewer enterprise services personnel.

To be clear, the data center consolidation and transition of agencies to consolidated, enterprise IT services was never been funded by the Legislature when IT Consolidation was passed into law. House File 691 continues this practice by adding additional unfunded mandates with statutory completion deadlines that are made even more challenging by the mandated reductions in enterprise services personnel. Like any private sector company that has gone through a merger or IT consolidation initiative, the State must dedicate resources to the development and migration of IT functions from a distributed to a centralized state in order to reap the long-term efficiencies that result from consolidated operations. Booking savings from a government service redesign initiative without funding the work required to realize such a redesign is not a realistic proposition.

The Governor's proposed investment in roughly $27 million for the upcoming biennium (and roughly $5 million per year ongoing) reflect the level of investment needed for MN.IT to effectively secure state information technology infrastructure, complete the consolidation of state data centers to a more manageable and efficient footprint, and respond to growing cyber threats targeting citizen data and government systems. I urge you to reconsider full funding of this imperative request.

In addition to the $27 million requested to bolster cyber defense of the State's IT infrastructure, House File 691 also fails to fund proposed investments to secure the software applications that run on MN.IT's IT infrastructure. Included in Governor Dayton's cybersecurity investment package was roughly $18.2 million for the biennium to increase security, support disaster planning and recovery, and ensure optimal operation of Minnesota Management and Budget's enterprise systems. These systems support accounting, payroll processing, and human resource functions for the entire executive branch and house a large volume of sensitive financial and personal data.

In 2015, systems performing similar human resources functions for the federal government at the Office of Personnel Management were breached, resulting in the theft of roughly 21.5 million personal records and costing the federal government over $133 million for identity theft protection services alone. MMB's enterprise systems, including SWIFT (the Statewide Integrated Financial Tools) are the backbone to operation and delivery of state government functions and services. SWIFT was first implemented in 2011, has not been upgraded since that time, and will soon be out of software support, making it increasingly vulnerable to intrusion and potential breaches. The State of Minnesota wisely invested in this industry-leading enterprise resource planning software – software that is utilized by private sector companies across the globe to support business functions of similar size and complexity. But, like any of our counterparts in the private sector, the value of this investment for the State can be maintained only if we continue to invest in the maintenance and periodic upgrade of the software in alignment with the vendor's timeline for product improvement and support. Failure to upgrade such a product on a reasonable timeline will eventually result in the need for a full replacement of the system – an outcome that would require significantly more resources than those being requested this session.

Again, I encourage you to reconsider full funding of the Governor's proposed investments in cybersecurity. As always, I am available to answer questions or provide any information you may need as budget deliberations continue.

Sincerely,

Thomas A. Baden Jr.
Commissioner and State Chief Information Officer

CC: Rep. Sheldon Johnson, Rep. Jim Knoblach, Rep. Lyndon Carlson

March 28, 2017

Senator Mary Kiffmeyer, Chair
Senate State Government Finance and Policy and Elections Committee
3103 Minnesota Senate Building
Saint Paul, MN 55155

Senator Kiffmeyer,

I write to express the concerns of the Office of MN.IT Services related to Senate File 605, the Senate's State Government Finance omnibus bill. As the state agency charged with securing and protecting citizen data and all state agency technology systems, we are particularly concerned that Senate File 605 provides insufficient funding to address immediate cybersecurity needs and cyber threats facing the state. To the extent that Senate File 605 does fund cybersecurity, it largely does so by redirecting existing IT spend from other functions and projects that are critical to the accountable, efficient, and secure delivery of information technology for Minnesota state government.

Consolidating and reducing the State's current datacenter footprint down to a more manageable number is the only cost-effective route to ensuring more secure data center operations - a critical step in bolstering Minnesota's cybersecurity defenses. While the funding mechanisms are problematic, as will be discussed later in this letter, MN.IT appreciates the commitment demonstrated in the bill to funding the data center consolidation initiative, which we estimate will cost roughly $14 million to achieve in the upcoming biennium. Because the bill mandates the reduction of state data centers from 27 to six during the upcoming biennium, it would essentially mandate that nearly all funding provided in the bill for cybersecurity be spent on data center consolidation.

Data center consolidation, however, is only half of an interdependent, two-part initiative. Data center consolidation is an enabler of improved cybersecurity because it makes implementation of a robust security environment more cost-effective and sustainable. As such, in order to realize the security benefits of data center consolidation, the consolidation must occur alongside investment in cybersecurity tools and services that are fully integrated into consolidated data center operations and IT delivery. These items make up the unfunded portion of MN.IT's cybersecurity change item, as it relates to Senate File 605. As a result, no funding would be available for:

- Needed vendor services including denial of service attack protection, penetration testing, after-hours monitoring, and cybersecurity insurance;
- Advanced cybersecurity tools and their ongoing support; and,
- Cybersecurity staff needed to take action and address vulnerabilities based on the information those security tools provide.

As it relates to the cybersecurity funding that is included in the bill, several problematic mechanisms are employed in order to make the investment. The first mechanism for funding cybersecurity in Senate File 605 is a redirection of $10 million in already-dedicated IT project dollars from the Information and Telecommunications Technology Systems and Services Account. Most of the projects the bill would de-fund are already in flight and are needed projects to modernize, upgrade or replace systems in order to address identified security issues and support reliable, efficient government operations. Redirecting these projects' existing funding would leave those projects unfinished, create additional risk and security gaps in state systems moving forward, and negate the value of project investments already made.

The second mechanism for funding cybersecurity is an increased general fund appropriation to MN.IT. While the bill does provide $2 million in new general fund money, it also mandates a reduction in MN.IT's general fund appropriation for the upcoming biennium totaling $3 million as a result of personnel cost reductions. Language is included in the bill to mitigate this $3 million reduction by providing for transfers of consolidation savings, but because MN.IT is a chargeback agency, any IT personnel savings that result from consolidation would simply result in reduced charges for agencies. It is unclear how the transfer authority could be utilized without overcharging agencies, violating federal cost allocation requirements, and accruing federal liabilities that would have to be repaid. As a result, the net impact of the two proposals is thus a million dollar reduction in MN.IT's general fund appropriation.

Moreover, this $3 million mandated reduction would limit MN.IT's options in cost-effectively meeting increased demand from state agencies for IT services and support. Many state agencies are pursuing modernization of aging IT systems, some of which are decades-old. Statutorily-mandated total personnel cost reductions would tie MN.IT's hands in determining how technology projects and information technology services are delivered, likely requiring the State to bring in vendors or contractors for IT work that could be more cost-effectively provided by a state employee.

Lastly, the bill would provide funding for cybersecurity by requiring that $2.6 million of MN.IT's base general fund appropriation of $5.2 million be spent on cybersecurity. MN.IT's base general fund appropriation supports leadership and oversight functions that are critical to making continued progress in the IT consolidation initiative, in addition to funding the Minnesota Geospatial Information Office, which coordinates inter-governmental cooperation in the use of geospatial technology and ensures the availability of valuable geographic information systems data to local government, higher education and the private sector. This redirection of base general fund dollars to cybersecurity would simply shift costs to MN.IT's rate package, resulting in increased costs for agencies paying for MN.IT's rate-based services.

The Governor's proposed investment in roughly $27 million for the upcoming biennium (and roughly $5 million per year ongoing) reflect the level of investment needed for MN.IT to effectively secure state information technology infrastructure and respond to growing cyber threats targeting citizen data and government systems. Redirecting funds from other important functions creates additional risk and simply shifts the cost of cybersecurity investment to agency operating budgets.

In addition to the $27 million proposed by Governor Dayton to bolster cyber defense of the State's IT infrastructure, the Governor also proposed investments to secure the software applications that run on MN.IT's

IT infrastructure. Included in this cybersecurity investment package was roughly $18.2 million for the biennium to increase security, support disaster planning and recovery, and ensure optimal operation of Minnesota Management and Budget's enterprise systems. These systems support accounting, payroll processing, and human resource functions for the entire executive branch and house a large volume of sensitive financial and personal data.

In 2015, systems performing similar human resources functions at the federal level at the Office of Personnel Management were breached, resulting in the theft of roughly 21.5 million personal records and costing the federal government over $133 million for identity theft protection services alone. MMB's enterprise systems, including SWIFT (the Statewide Integrated Financial Tools) are the backbone to operation and delivery of state government functions and services. SWIFT was first implemented in 2011, has not been upgraded since that time, and will soon be out of software support, making it increasingly vulnerable to intrusion and potential breaches. The State of Minnesota wisely invested in this industry-leading enterprise resource planning software – software that is utilized by leading private sector companies across the globe to support business functions of similar size and complexity. But, like any of our counterparts in the private sector, the value of this investment for the State can be maintained only if we continue to invest in the maintenance and periodic upgrade of the software in alignment with the vendor's timeline for product improvement and support. Failure to upgrade such a product on a reasonable timeline will eventually result in the need for a full replacement of the system – an outcome that would require significantly more resources than those being requested this session.

While cybersecurity threats have existed for some time, the volume and sophistication of those threats has grown exponentially in recent years. With so much of government functions and services reliant on information technology systems, there is little risk of overstating the potential impact to state government of a catastrophic breach or takedown of state technology systems. These risks must be recognized in terms of their financial impact, their impact to ongoing delivery of critical government services, and their impact to the public's trust in their government.

I encourage you and your fellow committee members to reconsider full funding of the Governor's proposed investments in cybersecurity. As always, I am available to answer questions or provide any information you may need as budget deliberations continue.

Sincerely,

Thomas A. Baden Jr.
Commissioner and State Chief Information Officer

CC: Sen. Jim Carlson, Sen. Julie Rosen, Sen. Richard Cohen

DEPARTMENT OF REVENUE

March 28, 2017

Senator Julie Rosen
Chair
3235 Minnesota Senate Building
95 University Avenue West
Saint Paul, Minnesota 55155-1206

Senator Richard Cohen
2301 Minnesota Senate Building
95 University Avenue West
Saint Paul, Minnesota 55155-1206

Representative Mary Kiffmeyer
Chair
3103 Minnesota Senate Building
95 University Avenue West
Saint Paul, Minnesota 55155-1206

Senator Jim Carlson
2207 Minnesota Senate Building
95 University Avenue West
Saint Paul, Minnesota 55155-1206

Dear Chairs and Senators:

As SF 605 moves from the Finance Committee to the floor, I write to express deep concerns about the funding in the bill, and its impact on taxpayers and Minnesota's overall fiscal health. This bill will provide the Department of Revenue with $32 million *less* in funding than is needed to maintain our current level of services – an effective cut to current service funding of over 13 percent. This could mean a reduction of approximately 200 additional employees who deliver services to Minnesotans each day and a reduction of revenue of at least $38 million over the biennium.

Funding Levels
Failing to fund the Governor's request for the department's operating adjustment alone would mean a loss of 121 employees who work each day to serve Minnesotans. The bill further reduces base funding by over $11M for FY 2018-19, which will result in an estimated reduction of an additional 77 FTE per year.

The bill also ignores the Governor's proposed investment needed to address new demands, such as emerging patterns in fraud and the growing number of customer requests for guidance on complex tax questions.

As we described in the State Government Finance Committee, the department has already made significant reductions in our operational costs. Specific examples included a $2.5 million per year reduction in the appropriation for FY14-15 biennium; and, we closed three offices and made other changes to realize cost reductions of $2.5 million during FY16-17. These reductions have allowed us to maintain critical staffing levels. Even so, our agency is down by 200 employees from just a few years ago.

Impact on Taxpayers

The practical impact of these combined reductions on Minnesota taxpayers includes:

- Significant delays in processing tax returns and refunds
- Difficulty for customers trying to reach someone by phone or email and longer wait times on the phone and in our lobby
- Greater risk of criminals using taxpayer identity information to steal their refunds
- Reduced security of taxpayer information and the consequent risk of a breach and other disruptions for taxpayers
- Reductions in timely guidance for taxpayers through fact sheets, industry guides, revenue notices, and other outreach and education
- Diminished capacity to provide the Legislature with revenue analysis and other information about their proposals
- Fewer skilled staff to find those furthest from compliance and bring them back into compliance – meaning the loss of a level playing field for all taxpayers
- Audits taking longer to complete
- Delays in taxpayer appeals and the resolution of disputes
- Reductions in service to local property tax assessors and oversight, which will increase inequities in local valuation assessments

We anticipate that these impacts would frustrate your constituents and our customers.

These reduced services will also mean that taxpayers across the state will not have a level playing field. If we lack capacity to educate taxpayers or use our enforcement tools with those furthest from compliance, other taxpayers who are following the law will face a disadvantage. A small retailer who collects and remits the right amount of sales tax should not have to compete with a business who collects tax but, instead of remitting to the state, keeps it to fund their operations.

Appropriation Structure Constrains Services and Responsiveness

We have significant concerns with the structure of the appropriations in the bill. For over 20 years, the department has received appropriations for each of its two programs– tax system management and debt collection. This structure has worked well for two decades and there is no reason to make this change now. The more-detailed appropriations structure in the bill will actually reduce our ability to respond in real time to quickly changing needs.

For example, when the fraud problem hit in 2015, we moved some of our most seasoned tax specialists from one activity to another to help mitigate the impact on taxpayers waiting for refunds – and it worked. And, as cybersecurity threats continue to grow, the department will lose the flexibility it needs to quickly refocus resources.

During Finance Committee consideration, a provision was added to require the department to prioritize the processing of individual income tax returns, taxpayer fraud, and ensuring refunds are not delayed. Because the department already puts significant focus on processing income tax refunds and fraud, this provision does nothing to advance that work. Instead, by prioritizing specific department activities in the appropriations bill – along with enacting significant base reductions – the bill only limits the department's ability to focus resources for the benefit to our customers.

Taxpayers will feel a deeper cut in phone and other services that help them voluntarily file and pay. Service levels in the areas of appeal processing, providing analyses for legislative proposals on tax law changes, and other core functions will take longer and inconvenience customers. Counties, cities, and townships will not receive needed guidance, education, or regulation on complicated property tax laws that fund their services to their residents.

Finally, it's important to note that appropriating at the budget activity level does nothing to improve transparency. Significant detail is available to the Legislature in the BPAS system and an even larger amount of information and detail is available at TransparencyMN website. Instead, this change to our appropriation structure is an unnecessary burden on how the agency serves customers, and it interferes with the operational efficiency of the agency.

Impact on Revenue
Additionally, as we shared with you in Committee, failure to fund our technology systems, outreach and education services, and audit and collection work, will have a negative impact on the state's revenue stream. The bill's base reductions, along with the requirement to prioritize certain activities, could result in an estimated reduction of revenue of at least $38 million in general fund revenue.

This estimate assumes an approximate 3:1 ratio – three dollars of revenue loss for every one dollar reduction to our tax system management program. This is a conservative estimate, especially in light of our already reduced staff and the well-publicized reduction in federal audit capacity – on which we depend for a significant portion of our state adjustments. It is also conservative when compared to historical compliance initiative ratios, which were often higher than the ratio used in this estimate.

Cybersecurity
I also need to highlight the bill's failure to fund the Governor's request for MNIT services – particularly the request for cybersecurity. Approximately 120 MNIT employees work alongside department staff each day. Personnel cuts to MNIT will translate to reduced use of technology by agencies or additional costs to agencies through higher rates.

We cannot overstate the importance of securing the data across state government. For the Department of Revenue, that means securing the tax data of millions of Minnesotans, and financial information for over 400,000 businesses. This bill puts that security at risk.

Moving Forward

The department is eager to serve Minnesota taxpayers in the most efficient and effective way possible. To do that, we need your help in securing the appropriate level of financial resources. We welcome any opportunity to discuss how we can best do that on behalf of Minnesota.

Sincerely,

Cynthia Bauerly
Commissioner

DEPARTMENT OF REVENUE

April 5, 2017

Representative Jim Knoblach
Chair, House Ways and Means
453 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
Saint Paul, Minnesota 55155

Representative Lyndon Carlson Sr.
DFL Lead, House Ways and Means
283 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
Saint Paul, Minnesota 55155

Representative Sarah Anderson
Chair, House State Government Finance
583 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
Saint Paul, Minnesota 55155

Representative Sheldon Johnson
DFL Lead, House State Government Finance
259 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
Saint Paul, Minnesota 55155

Dear Chairs and Members:

As the Omnibus State Government Finance bill moves toward floor consideration, I write to express deep concerns about the bill and its impact on Minnesota taxpayers and the State's fiscal health.

This bill as drafted represents about $55 million less in funding than is needed for the Department of Revenue to simply maintain our current level of services provided to Minnesotans and meet the requirements of the bill. As explained in detail below, this reduction results from three failures in the bill. First, it fails to fund the Governor and Lt. Governor's recommended operating adjustment for the department's work of $20.8 million. It fails to fund even our base budget, cutting it by $12.4 million. Finally, failing to fund the requirement that the department provide a free filing system for income taxes by January 2018, which will cost the department approximately $22.3 million, means that amount is unavailable to fund our existing services.

The bill represents an effective cut to current service funding of over 19 percent. It equates to a reduction of almost 200 employees who serve Minnesotans every day. The combination of the reduced funding levels, the riders that limit our ability to effectively and efficiently administer the tax system, and at least one significant new, unfunded program, will have a negative impact on the services we provide to Minnesotans and the revenue stream. The reductions in the bill could result in an estimated loss of at least $80 million in general fund revenue.

Funding levels

Failing to fund the Governor's request for the operating adjustment for the department alone would mean a loss of 121 employees who work each day to serve Minnesotans. The bill further reduces base funding by over $12 million in FY2018-19, resulting in an estimated reduction of an additional 82 FTE per year. The bill ignores the additional investment in the Governor's budget needed to address new demands, such as emerging patterns in fraud and the growing number of customer requests for guidance on complex tax questions.

Bill requirements are in conflict
In addition to the troubling, significant reduction to the amount of resources needed to maintain existing services, the bill language requires us to do exactly that – maintain those very services.

Section 14 of the bill specifically states that we can spend no less on tax compliance activities than we did in FY17. These activities include audit, enforcement, collection, appeal, legal support in audit, data analytics to find those furthest from compliance, education, information and outreach to help those who voluntarily comply, and support for the filing systems.

In addition, section 39 of the bill states that reductions must not be made to programs or services that are provided directly to members of the public. These include:

- education, information, and outreach services
- help for customers who walk-in, call, or email the department
- the ability to provide property tax education, guidance and assistance to county and municipal property tax administrators
- timely processing of tax returns and refunds
- protection of taxpayers from fraud

Sections 14 and 39 describe essentially all of our work at the department. The bill would have us perform all of our current services and yet cuts many of the resources needed to perform them. We cannot absorb the appropriation reduction and meet the requirements of the bill regarding services.

Impact on Revenue
Accordingly, the combination of the reduced funding levels and the riders will limit our ability to effectively and efficiently administer the tax system and will have a negative impact on the revenue in the state's general fund. Because we would not be able to meet both the required budget reductions in the bill and the mandated service levels, we would need to balance reductions across the agency.

The reductions in the bill could result in an estimated loss of at least $80 million in general fund revenue. This estimate assumes an approximate 3:1 ratio – three dollars of revenue loss for every one dollar reduction to our tax system management program. This is a conservative estimate, especially in light of our already reduced staff and the well-publicized reduction in federal audit capacity – on which we depend for a significant portion of our state adjustments. It is also conservative when compared to historical compliance initiative ratios, which were often higher than the ratio used in this estimate.

Unfunded Free File program is unworkable and not cost effective
Although we share the goal of the bill's provision to encourage more Minnesotans to file electronically by offering additional free file solutions, the timeline and approach in the bill are unworkable and come with significant cost.

Currently 85 percent of Minnesotans file their individual income tax returns electronically. We know that some of our customers will always prefer paper and so we will continue to provide them with that option. We also know that some customers choose to file on paper for the sole reason that they do not want to pay their software vendor an additional fee for the state filing.

It is important to know that a number of software vendors already offer free electronic filing to those who qualify. Examples include:

- H&R Block
- OLT
- TaxAct
- FreeTaxUSA® Free File Edition
- TurboTax® Freedom Edition

Each vendor has a different set of qualifications to access the free filing options. For example, FreeTaxUSA's maximum adjusted gross income is $51,000 and active duty military personnel qualify. TurboTax's qualifying income level is $33,000.

Instead of building on these vendor provided options, the bill would require the department to replace those options with a government provided free file option for Minnesotans starting next year – just over nine months away. Even if the timeline was feasible, it is unlikely that we could gain the support and cooperation from those in the technology and vendor industry, who have expressed opposition to the provision, and who are so important for the success of such an effort.

I cannot express enough how challenging and fraught with problems it would be to create such a piece of technology within the bill's timeframe. Our partners at MNIT tell us that to build a quality product we should spend more time than is allowed in the bill for the final product to develop requirements, infrastructure, and architecture for such a complicated solution.

For example, to meet customer expectations and implement the pre-population requirement we would need to offer a wizard-like function, meaning the system would lead customers through a series of questions that determine tax liability. We estimate the system needing over 160 screens, each with four decision points and options. The development of just this customer interface will take significant time and resources.

The bill requires this solution to prepopulate information for taxpayers. We do receive some essential information from employers, but as you may know, the statute requires employers to file their W2s with us by the end of February and it would take until mid-March before that information would be available to be used in a system. This means the statutory date of having the system available on January 15 is simply unworkable.

Prepopulating sensitive data and ensuring we protect taxpayer information will mean this system will have to meet incredibly stringent security and customer verification requirements adding to development time and costs. There are many other impacts to this approach that we have previously shared. Ultimately, the bill requires us to offer a very robust service that few other software vendors do right now: a wizard function in addition to a prepopulated system from third party data.

Ultimately, the small cost savings through efficiency in processing would be outweighed by the cost to build this new system. If we were able to move additional people to electronic filing, it would reduce the processing costs compared to paper returns. However, as stated above, about 85 percent of returns are filed electronically now. Of the remaining 15 percent or 400,000 that file paper returns, we expect that, at best, we might have an additional 5 percent of the filing population, or 140,000, file electronically if we offered a free option. That would mean the department's costs for processing those returns would be reduced by about $252,000. Of course, many more than the additional 140,000 would use this system and stop using the existing software available in the market.

That $252,000 in potential savings in processing would be overwhelmingly offset by the costs to build and maintain this system – over $22 million in the first biennium. As you might imagine, building and maintaining a system that will meet the requirements of the bill, ensure appropriate security for taxpayer information, keep pace with changing laws, and appeal to customers will be very costly. After analyzing the bill requirements, the necessary technology, the impact on the private sector vendors existing free file programs, and our customers, we provided a fiscal note for HF2336, which is the standalone bill for this provision. That document identifies the work and resources associated with this program and the cost of over $22 million in FY18-19.

Because the bill language now makes clear that the department must use existing funds for this work, it will reduce by the same amount our funds for serving Minnesotans and collecting revenue. Accordingly, there will be additional, significant reductions in service levels and could result in over $45 million in lost revenue associated with this unfunded mandate.

The appropriate way to move forward with additional free file options is for the department to work with technology and software vendors in this industry to leverage their expertise through an RFI process and create a report for the legislature. This approach would seek a realistic solution that would build on the shared expertise of the industry and the department and not duplicate what is already available in the software vendors free file options. We urge the removal of the free file mandate in this bill and, instead, take the approach of HF433 to provide information about options available through private vendors and the costs and benefits of those options to the state and our taxpayers.

First time homebuyer credit

We appreciate the appropriation for the first time homebuyer credit. However, as we have been discussing with bill proponents, there are a number of issues that we need to continue to work on. In addition, there are many other provisions in the House omnibus tax bill that will have significant cost to implement and administer – student loan credit, the private letter ruling and assessment limitation provisions, and the reciprocity credit, among others. We have promised the House Tax Committee a full fiscal note as that bill moves forward.

Incidence Report changes

We are concerned with the language to add federal taxes to the incidence study. Federal tax incidence is not under the jurisdiction of Minnesota lawmakers and its inclusion in the report could confuse the policy conversation. This is the case because some federal taxes are not on the same tax base as Minnesota taxes. For example, the definition of income for federal tax would need to include the employer share of social security taxes – which is not included in the definition of income in past studies on Minnesota taxes. This would make it difficult to understand the effect of combining federal tax results and distort the effect of state and local tax results. We recommend retaining the current format of the incidence study, which gives the legislature information about taxes over which it has jurisdiction.

Pipeline Valuation Report

As we shared with you last week, a report of this scope, on the timeline specified in the bill, will take additional resources. We produced a similar report approximately 10 years ago, with the help of an outside expert, and it cost about $100,000. We would need additional resources to be able to complete this work.

Board of Assessors
We are very concerned that the bill fails to make the changes requested from the Board of Assessors. Current law requires the Board's fees to cover its cost to operate – not the general fund. The proposal in the Governor's budget reduces general fund expenditures for these costs and satisfies the Board's obligation under statute. By failing to provide the Board with the proposed fee schedule, and the revenue from those fees, the bill and the Board's governing statute remain in conflict.

Appropriation structure
Next, we have significant concerns with the structure of the appropriations in the bill, and appropriation riders and other bill requirements, which constrain the commissioner's budget management authority. For over 20 years, the department has received appropriations for each of its two programs– tax system and debt collection.

This structure has worked well for two decades and there is no reason to make this change now. The more detailed appropriations structure in the bill – combined with rider language that limits our ability to manage – will tie our hands and reduce our ability to respond in real-time to quickly changing needs. As circumstances change, such as cybersecurity threats that continue to grow, the department will lose the flexibility to quickly refocus resources.

Finally, it is important to note that appropriating at the budget activity level does nothing to improve transparency. Significant detail is available to the Legislature in the BPAS system and an even larger amount of information and detail is available at TransparencyMN website. Instead, this change to our appropriation structure is an unnecessary burden on how the agency does its business and serves customers, and interferes with the operational efficiency of the agency.

MN.IT cybersecurity funding
The bill's failure to fund MNIT – particularly its request on cyber security – as requested by the Governor's budget will put at risk the information Minnesotans trust all of us to protect. There are about 120 MNIT employees who work alongside us each day. Personnel cuts to MNIT will be translated into reduced use of technology by agencies or additional costs to agencies through rates. We cannot overstate the importance of ensuring that the data across the state is secure. For us, that means the tax data of millions of Minnesotans and financial information for over 400,000 businesses must be secured. This bill puts that security at risk.

Moving Forward
The department is eager to serve Minnesota taxpayers in the most efficient and effective way possible. To do that, we need your help in securing the appropriate level of financial resources. We welcome any opportunity to discuss how we can best do that on behalf of Minnesota.

Sincerely,

Cynthia Bauerly
Commissioner

DEPARTMENTS OF THE ARMY AND THE AIR FORCE
JOINT FORCE HEADQUARTERS MINNESOTA
OFFICE OF THE ADJUTANT GENERAL
20 12TH STREET WEST
SAINT PAUL, MN 55155-2004

April 7th, 2017

Subject: Concerns Regarding Senate File 605 as Amended by the House reflecting House File 691 (1st Unofficial Engrossment of SF 605, as amended)

Honorable Sarah Anderson
583 State Office Building
St Paul, Minnesota 55155

Dear Representative Anderson;

I am writing to express my concerns as the Adjutant General of Minnesota with the proposed omnibus State Government Finance bills.

The bill provides $11,714, 000 less than the funding level recommended by the Governor. My specific concerns with the bill follow:

While the steady-state funding for our other appropriations supports funding that is required for the long-term maintenance needs of the agency, it does nothing to address the forecasted shortfall in the Enlistment Incentives Appropriation. This will result in restriction of enlistment and re-enlistment incentives and will reduce the level of tuition reimbursement for our service members. Though the Adjutant General has the authority to reduce the amount of Tuition Reimbursement, and contracts clearly state this possibility, it will be seen by the participants in the program as a breach of trust, and will damage morale in the Minnesota National Guard. This under-funding will:

- Reduce higher education funding availability to more than 848 newly enlisted members from diverse communities. This is the number of those service members who enlisted only in the past two years.
- Significantly reduce service members' incentive programs:
- Affect approximately 1,900 members by reduction of Tuition Reimbursement
- Affect approximately 1,523 Service members who will not be eligible for incentives
- Adversely affect retention

The bill does not address the needed FY2017 funds transfer that is addressed in the Senate version of the bill. This will cause great difficulty for the agency to close out the current year in a responsible fashion.

I strongly urge you to reconsider the current path, and fund the Department of Military Affairs at the level and in the fashion recommended by the Governor.

Questions may be directed to the Executive Director of the Department of Military Affairs, Don Kerr at donald.j.kerr2.nfg@mail.mil or at 651 268 8913.

Sincerely;

Richard C. Nash
Major General, Minnesota Army National Guard
The Adjutant General

DEPARTMENTS OF THE ARMY AND THE AIR FORCE
JOINT FORCE HEADQUARTERS MINNESOTA
OFFICE OF THE ADJUTANT GENERAL
20 12TH STREET WEST
SAINT PAUL, MN 55155-2004

April 7th, 2017

Subject: Concerns Regarding Senate File 605 as passed by the Senate (2nd Engrossment)

Honorable Bruce Anderson
3209 Minnesota Senate Building
St Paul, Minnesota 55155

Dear Senator Anderson;

I am writing to express my concerns as the Adjutant General of Minnesota with the proposed omnibus State Government Finance bills.

The second engrossment (Senate version) of SF605 does not provide the resources recommended by the Governor, authorizing $11.714 Million less than the Governor's recommendation. My specific concerns with the bill follow:

Article 1, section 36 of the bill returns the distribution of agency funding to that of the 2014-2015 biennium. The structural budget corrections to address long-standing underfunding in maintenance that were accomplished with the change in the 2016-2017 biennium will be lost.

This bill includes no provision for known cost increases in already negotiated contracts or acknowledgement of increases in program costs and services, and therefore serves as a reduction to our overall operating budget despite clear evidence of forecasted cost increases.

The bill balances the forecasted increases in enlistment incentives by reducing the funds available for needed sustainment and maintenance of our facilities and the operation of the agency. It makes this reduction despite a documented $140 million maintenance backlog, and reduces our maintenance appropriation to only 66% of the amount that we are required to request for sustainment in accordance with Minnesota Statute 16A.11, subdivision 6.

In addition to reducing the maintenance appropriation, this bill shifts resources from the General Support account to fund the increase in the Enlistment Incentives appropriation. This will more than erase the increase in appropriation passed in last year's supplemental budget. This increase was required to fund security costs due to the improvements that we undertook in response to the violent incidents against military members in Chattanooga, Tennessee and other places. These measures included arming our guards at certain military facilities. We cannot now reduce the personnel costs incurred while maintaining appropriate training and qualifications of our armed guards without these funds. Additionally, our state vehicle service life replacement program will be seriously curtailed, requiring us to keep already old and expensive to operate motor vehicles in service for longer periods.

In article 1, section 38, the bill does authorize a needed transfer in the current year to fully fund enlistment incentives obligations in FY2017. This is an important provision, thank you for including it in the bill.

I strongly urge you to reconsider the current path, and fund the Department of Military Affairs at the level and in the fashion recommended by the Governor.

Questions may be directed to the Executive Director of the Department of Military Affairs, Don Kerr at donald.j.kerr2.nfg@mail.mil or at 651 268 8913.

Sincerely;

Richard C. Nash
Major General, Minnesota Army National Guard
The Adjutant General

STATE OF MINNESOTA DEPARTMENT OF VETERANS AFFAIRS

★ ★ ★

20 West 12th Street, Room 206 • St. Paul, MN 55155 • (651) 296-2562
Fax (651) 296-3954 • MinnesotaVeteran.org • 1-888-LinkVet

March 27, 2017

TO: House State Government Finance Committee

RE: Minnesota Department of Veterans Affairs – Regarding H.F. 691 DE-Amendment

H.F. 691 DE-Amendment (Article 1, Section 38, Subdivision 1) appropriates to the Minnesota Department of Veterans Affairs (MDVA) a total of $148,058,000 for the FY2018-19 biennium. MDVA is aware that this amount represents a $700,000 increase over the base. We are appreciative of the House's efforts to help us maintain the highest levels of service and quality of care to Minnesota's Veteran community.

However, it is with concern that I write today to note that the amount you have allocated for appropriation is well below Governor Dayton's recommendation of $152,623,000 for the biennium. The additional $4,565,000 is intended to be used to support MDVA operations, operational funding for the new Minnesota State Veterans Cemetery – Duluth and essential maintenance & repairs at our skilled nursing facilities and State Veterans Cemeteries. I wanted to highlight a few of these important initiatives which you have chosen not to fund.

Due in part to the limited - or complete absence of - Capital Investment funding over the past few years, the Minnesota Department of Veterans Affairs included a request for a one-time appropriation of $2,000,000 for agency-wide Repair & Betterment funding. MDVA is responsible for more than 50 buildings statewide, with a total replacement value of more than $265 million. Beyond the key health and safety needs of our residents, MDVA takes seriously our obligation to be responsible stewards of state assets. Lack of proper repair and betterment funding can have serious and long term effects on the overall successful operations of these homes.

Yet the most conspicuous item left unfunded by this bill is a request for $500,000 annually for the staffing and operations of the new Minnesota State Veterans Cemetery near Duluth. This location will provide access for an additional 31,000 Minnesota Veterans who reside within 75 miles of the new location. Federal grant funding in the amount of $8.34 million for the construction of the new cemetery has been awarded by the National Cemetery Administration, U.S. Department of Veterans Affairs (VA). Grant awards include a Memorandum of Agreement between the VA and the State of Minnesota which requires the State to provide adequate financial support to operate and maintain State Veterans Cemeteries. Leaving the new cemetery operations unfunded will put serious strain on other important programs and services currently provided by MDVA to our state's Veterans. In addition, it could jeopardize future federal cemetery development grants. As you know, the Legislature previously authorized construction of one additional State Veterans Cemetery in Southwest Minnesota.

Thank you for the work you have done so far this legislative session. I know that you take seriously your role in crafting our agency budgets, and I appreciate your willingness to assist the Minnesota Department of Veterans Affairs in doing the same. I ask that you reconsider your funding decisions on these important agency concerns.

Larry Shellito, Commissioner
Minnesota Department of Veterans Affairs

STATE OF MINNESOTA DEPARTMENT OF VETERANS AFFAIRS

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20 West 12th Street, Room 206 • St. Paul, MN 55155 • (651) 296-2562
Fax (651) 296-3954 • MinnesotaVeteran.org • 1-888-LinkVet

March 27, 2017

Senate Committee on Finance

RE: Minnesota Department of Veterans Affairs – Written Testimony Regarding S.F. 1316 as Amended, the "Omnibus Veterans and Military Affairs Finance and Policy Bill"

- As currently constituted, Article 1, Section 3, Subdivision 1 appropriates to the Minnesota Department of Veterans Affairs (MDVA) a total of $148,768,000 for the FY2018-19 biennium. MDVA is aware that this amount represents a $1 million increase over the base and is appreciative of the Senate's efforts to help our agency maintain our high level of services and quality of care to Minnesota's Veteran community.

  Unfortunately, it is necessary to point out that the amount appropriated is well below the Governor's recommendation of $152,623,000 for the biennium. The additional $4,265,000 is intended to be used to support MDVA operations, essential maintenance & repairs at our skilled nursing facilities and State Veterans Cemeteries, as well as additional opportunities for student Veterans utilizing the MN GI Bill educational benefits.

- **Agency Change Items Left Unfunded**
  - Due in part to the limited, or complete lack of, Capital Investment funding over the past few years, MDVA included in its agency budget request, a one-time appropriation of $2,000,000 for agency-wide Repair & Betterment funding
    - MDVA owns or operates more than 50 facilities statewide. These range in construction date from the late 1800s to those currently under construction. With that comes the burden of repairs and improvements. The five State Veterans Homes across the state house residents and thus must be functional and in good repair and void of accident-prone or dangerous areas. Electrical, HVAC, plumbing, and clean water are necessary.
  - Additional Operational funding of $2.265 million in the FY2018-19 biennium to maintain the current level of service delivery at the Minnesota Department of Veterans Affairs.
    - Each year, employer-paid health care contributions, pension contributions, FICA and Medicare, along with other salary and compensation-related costs increase. Other operating costs, like rent and lease, fuel and utilities, information technology and legal services also grow. This cost growth puts pressure on agency operating budgets that remain flat from year to year.
  - Approving the availability of an additional $200,000 each fiscal year from the existing $6 million Minnesota GI Bill open appropriation, permitting Veterans to use their MN GI Bill benefits to pay for licensing, certifications and testing, and to bring parity between the higher education and apprenticeship and on-the-job training (OJT) program.

- Article 1, Section 3, Subdivision 2 appropriates money from the General Fund for various specified purposes; pass-through grants to support programs and organizations such as congressionally-chartered veterans service organizations, County Veterans Service Offices, funeral honor guards and assistance for Veterans and their families who are homeless or in danger of homelessness.

  Subdivision 2 goes on to authorize new grants to organizations totaling $400,000 **from the Minnesota "Support Our Troops" (SOT) special revenue fund.** These grants are to be used to promote community education regarding Korean War and Desert Storm Veterans' contributions and experiences; support Veterans involved with the criminal justice system; and develop "new or rehabbed affordable housing dedicated for low-to-moderate income veterans and their families."

  The Minnesota Department of Veterans Affairs is in no way opposed to the expressed objectives of these organizations, and is supportive of the allocation of state resources to explore innovative approaches to mitigate, alleviate and/or eliminate altogether the challenges faced by Minnesota Veterans and their families.

  What we strongly oppose is the legislature bypassing the established SOT grants application and evaluation process by directing that MDVA 'must' use the Support Our Troops special revenue account to fund specific organizations or initiatives for the following reasons:

  - The current grant process vets organizations who are applying for grants which, among other things, evaluates the organization's finances, legal standing, and appropriate use of grant dollars for Minnesota Veterans as defined my Minn. Stat. 197.447. Direct appropriation may weaken or remove entirely that vetting process.
  - Sets a precedent by which, organizations who are unsuccessful in the existing grants process or who are unwilling or unable to apply, are able to circumvent the existing competitive process by simply requesting that the legislature appropriate funds directly from the SOT account.
  - Eliminates or ignores input about the SOT account's usage from the Veterans community, diminishing the value of the robust application, vetting, evaluation and decision-making process.
  - The account, which is almost entirely financed by donations from the Veterans community for the purpose of funding services and creative or novel veterans-support programs of their choosing, is converted into simply another revenue stream for the legislature to fund their own initiatives.

  We feel the legislature should allocate organization-specific funding to MDVA from the General Fund as a pass-through grant in the same manner as those Veterans programs and organizations who have historically received direct appropriations. In addition, when presented with an idea with merit which could benefit Minnesota Veterans and their families, we would ask the legislature to encourage those organizations to apply for a grant using the established process.

Regards,

Larry Shellito

Larry Shellito, Commissioner
Minnesota Department of Veterans Affairs

STATE OF MINNESOTA

Office of Governor Mark Dayton

130 State Capitol ♦ 75 Rev. Dr. Martin Luther King Jr. Boulevard ♦ Saint Paul, MN 55155

April 10, 2017

The Honorable Sarah Anderson
Chair
State Government Finance Committee
Minnesota House of Representatives
583 State Office Building
St. Paul, Minnesota 55155

Dear Chair Anderson:

Thank you for the opportunity to testify on the Governor's Office proposed budget for the next biennium. We have serious concerns about your State Government Finance omnibus bill that we would like to share with you.

Your bill reduces the budget of the Office of the Governor and Lt. Governor by over a million dollars per fiscal year or two million dollars over the biennium. This is a twenty percent decrease to our funding. This directly impacts our ability to provide needed services at our current levels of efficiency.

Additionally, you have added language that limits our ability to enter into inter-agency agreements, reduces the scope of those agreements and restricts our ability to hire staff. Your changes will reduce the flexibility needed by the Office of the Governor to respond to emergencies, delay extradition processing, and greatly extend our constituent contact response time.

As you know, our Office is audited by the Office on the Legislative Auditor every two years. The OLA reviews all of our inter-agency agreements, as well as all of our expenditures and reimbursements. The Legislature, by contrast, does not follow the same process.

We encourage you to fully fund the Office of the Governor and Lt. Governor at our requested level, which included no increase over the past biennium and to remove your restrictions on the Governor's Office ability to enter into inter-agency agreements.

Sincerely,

Jaime Tincher

Jaime Tincher
Chief of Staff

Amanda Simpson
Director of Operations

STATE OF MINNESOTA

Office of Governor Mark Dayton

130 State Capitol ♦ 75 Rev. Dr. Martin Luther King Jr. Boulevard ♦ Saint Paul, MN 55155

April 10, 2017

The Honorable Mary Kiffmeyer
Chair
State Government Finance and Policy and Elections Committee
Minnesota Senate
3103 Minnesota Senate Building
St. Paul, Minnesota 55155

Dear Chair Kiffmeyer:

Thank you for coming to meet with us on March 16th to discuss your intended changes to the Governor's Office budget for the next biennium. We did not have details of your plan at that time so were unable to fully respond to your proposals. We have serious concerns that we would like to share with you.

You shared that you were planning on moving all the funds set aside by agencies for the Governor's Office into the General Fund appropriation. You stated that you were fully funding our office's base budget request and you were making this change in order to bring greater transparency and clarity.

Instead, the Senate State Government Omnibus Finance Bill reduces the funding for the Office of the Governor and Lt. Governor by over $300,000 per year, or $600,000 over the biennium. This directly contradicts your stated intentions and impacts our ability to provide needed services at our current levels of efficiency.

Additionally, you have added language that limits our ability to enter into inter-agency agreements, reduces the Governor's ability to travel on behalf of state agencies and to participate in state events and trade missions. This directly affects our State in reduced revenue for tourism, impacts trade partnerships that adversely affect Minnesota businesses and jeopardizes our partnership with the Norwegian Reciprocal Troop Exchange, the longest-running military exchange partnership between any two nations.

As you know, our Office is audited by the Office on the Legislative Auditor every two years. The OLA reviews all of our inter-agency agreements, as well as all of our expenditures and reimbursements. The Legislature, by contrast, does not follow the same process.

We encourage you to fully fund the Office of the Governor and Lt. Governor at our requested level and to remove your restrictions on the Governor's Office ability to accept reimbursement for travel on behalf of the State of Minnesota.

Sincerely,

Jaime Tincher

Jaime Tincher
Chief of Staff

Amanda Simpson
Director of Operations

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Website: http://governor.state.mn.us An Equal Opportunity Employer

DEPARTMENT OF NATURAL RESOURCES

April 7, 2017

The Honorable Sarah Anderson
Chair, State Governance Finance Committee
583 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, Minnesota 55155

Dear Representative Anderson:

We are writing regarding HF691 Omnibus Government Finance Budget Bill and our thoughts on some of the provisions contained within it. We appreciate your inclusion of the State Technical Budgeting provisions within the bill. However, there are a number of provisions in the bill we oppose as currently written. Our staff has expressed our concerns through testimony and written comments. This letter summarizes those concerns.

The Department of Natural Resources (DNR) opposes across-the-board general fund reductions proposed in HF691, 1st Engrossment, Article 1, Sec. 41 and 42 and limits on expenditures for Advertising in Article 2, Sec. 60.

Based on our analysis, the impact to DNR's operating budget could be up to $400,000 each year, which does not account for lost revenue from reduced advertising and promotion of DNR programs and services.

- DNR operations are largely supported by fees generated by hunting and fishing license sales, camping and timber sales. We oppose any general fund reductions that will require the DNR to reduce service levels, curtail promotion of our rate-funded services and programs that will disproportionately impact other fee payers and their overall level of service.

- DNR is concerned about potential diversion of fee-based revenue through general transfers to the general fund which would create a serious fund integrity issue for the agency.

Further, DNR opposes the limit on number of full-time equivalent (FTE) staff, the restriction on use of salary savings in Article 2, Sec. 34, as well as limits on managerial compensation and salary limits for executive branch employees set forth in Article 2, Secs. 64 and 65.

- Staff (FTE) limits would impede the DNR's ability to manage critical response needs and seasonal staffing demands (wildfire, disaster response, state parks, fishing/hunting seasons). Wildfire seasons are unpredictable and the agency needs to be able to respond and meet our safety and natural resources obligations. DNR also needs to the ability to manage staff and resources to respond to emerging issues of state importance, such as Avian Influenza, Mille Lacs fisheries, natural disaster response, critical rulemaking, and the state's response to Chronic Wasting Disease.

- Compensation and salary limits, combined with budget and staffing impacts would require additional state park closures, significant reductions in trail maintenance, forest management, fish and wildlife management, enforcement, water protection, habitat improvement, reduced support for fee-paying programs and major impacts to rural economies.

The DNR has significant concerns about many of the proposed rulemaking changes within Article 4 that could impact our agency's ability to effectively and efficiently carry out its natural resources responsibilities under the law. Because DNR staff testified and prepared written comments on our concerns previously, I will focus on three sections that exemplify my concerns about the types of changes proposed: Substantial Economic Impacts; Review and Repeal of Environmental Worksheets and Impact Statements; Legislative Approval Required.

Article 4, Sec. 5. Substantial Economic Impact

Article 4, Sec. 5 is of particular concern to the DNR, because the state constitution obligates us to assure viable game and fish populations over the long term. Using short term economic impacts to businesses premised on hunting and angling rather than healthy populations may be detrimental to the state's long-term fishing and hunting heritage. There can be no fishing and hunting heritage without viable fish and game populations. Game and fish regulations are a form of natural resource management. If precedence is given to present economics, then we may be undermining constitutional purpose by undermining the active management on which populations depend. These concerns extend beyond hunting and angling regulation to DNR's other rulemaking authorities as well, such as Minn. Stat. § 103G.261 directing the adoption of rules for allocation of waters based upon statutory water allocation priorities. The DNR would likely have to contract with a vendor to analyze these questions for every permanent rulemaking, which will add more costs to rulemaking. The concept as set forth in the bill focuses only on economic costs and does not consider economic benefits or other benefits in the public interest. It is biased in favor of very short-term interests over long-term interests and needs.

Article 4, Sec. 10 Review and repeal of environmental worksheets and impact statements.

This provision does not belong in the Administrative Procedures Act as it relates to individual environmental reviews, which are case-by-case determinations and not rules under Minn. Stat. § 14.02 or § 14.381, subd. 1(b). The statutory framework governing environmental review requires RGUs to complete a periodic review of mandatory environmental review categories under Minn. Stat. § 116D.04, subd. 5b.

Article 4, Section 17 Legislative Approval Required.

The advisory panel requirements contain a number of ambiguities that need clarification. This procedure will add costs to the rulemaking when agencies usually have no budget appropriation for rulemaking. It will most likely increase the time needed to finish a rule and degrade the timeliness and responsiveness of agency rulemaking. In addition, DNR opposes the removal of the governor's ability to issue a waiver in careful consideration of particular circumstances. This power is has been exercised only rarely and prudently.

The list of concerns outlined in this letter is not intended to be comprehensive, but rather contains an overview of those provisions of greatest concern to the DNR. We and our staff are available to answer any questions on these outlined concerns, or any other parts of the bill.

Sincerely,

Tom Landwehr
Commissioner

c: State Government Finance Committee Members

DEPARTMENT OF REVENUE

March 29, 2017

Representative Greg Davids
Chair, House Taxes
585 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
Saint Paul, Minnesota 55155

Representative Paul Marquart
DFL Lead, House Taxes
261 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
Saint Paul, Minnesota 55155

Dear Mr. Chairman and Representative Marquart:

As House File 4 moves toward floor consideration, I write to express my views on the bill's overall cost and content. As I shared with you in committee, HF 4 takes a markedly different approach than the Governor's bill which maintains a fiscally responsible budget while investing in our future workforce and providing targeted tax relief for those most in need.

First, I do want to thank you for including several items found in the Governor and Lt. Governor's tax bill. The Child and Dependent Care Credit expansion, although not as generous as the provision in the Governor's bill, will help 60,000 families across the state pay for childcare. The School Building Bond Agricultural Credit will help farmers by paying half of their property taxes attributable to that levy. Several other items from the Governor and Lt. Governor's tax bill are also included in HF4:

- County aid related to out-of-home placements under ICWA;
- property tax exemption for the St. Paul Soccer Stadium;
- Minnesota State High School League Exemption;
- Estate Tax Recapture Related to Eminent Domain;
- Madelia Rebuild Sales Tax Exemption;
- aligning the definition of compressed natural gas with the industry standard; and
- a number of the Department's policy and technical provisions.

We also appreciate the inclusion of a federal conformity account so that the Department can continue to do our work around individual income tax filing even during years the legislature begins session well after filing season has started.

Unfortunately, HF4 does not include a number of priorities in the Governor and Lt. Governor's tax bill. The Governor's tax bill prioritizes tax cuts for middle class families and those struggling to get into the middle class. His bill, even given its size will help over 450,000 people and it ensures significant investment in education and leaves money for contingencies that are facing our state.

Most importantly, the expansion of the Working Family Credit is not included in HF4. This credit helps working families across Minnesota pay for basic needs and is a proven tool to fight poverty. This credit has enjoyed bipartisan support at the federal level since studies have shown it is one of our most effective methods of reducing poverty and improving outcomes for families. Its absence from HF4 is disappointing.

Local Government Aid and County Program Aid helps provide essential services while taking the pressure off property taxes. School Debt Service Equalization Aid will help ensure good school facilities across Minnesota. The Governor and Lt. Governor's bill provides significant investments in these programs to help keep property taxes down.

It is also unfortunate that two programs to smooth the transition for the buffer requirements in current law – buffer compensation payments and riparian aid to counties and watershed districts -- were not included.

Finally, a number of other important provisions from the Governor and Lt. Governor's bill are not included, among them:

- reforms to level the playing field for all businesses by closing loopholes, and updating assessment practices;
- railroad property tax modernization;
- increasing the military service credit for lower income veterans that served for 20 years or have a service-related disability;
- sales tax exemption for a siding facility;
- Angel Investment Credit expansion;
- expanding the sales tax to more nonprofits;
- updates to sustainable forest incentive act; and
- an update to vapor products and tobacco tax provisions.

Overall priorities:
When Governor Dayton took office in 2011, Minnesota faced a $6 billion budget deficit. Now, after six years of making tough, responsible choices, Minnesota is finally on sound fiscal footing. Our state has $1.65 billion on its bottom line and nearly $2 billion in reserves to protect Minnesota from future economic downturns. This bill will cost the state over $1.7 billion this biennium and $2.2 billion in the next and grow significantly in the future, setting the state up for fiscal uncertainty. This bill prioritizes unsustainable tax cuts now and into the future over investments in prekindergarten, higher education and economic development that will grow opportunities for hard working Minnesotans in our state.

Upon comparison of several provisions, the composition of the bill is concerning. For example, in the area of property tax: compare the impact of the changes to the C/I levy changes and those to individual taxpayers. In the near term, the C/I levy changes will allow all businesses to reduce their property taxes with the exclusion of the first $200,000 of value. The freeze to the levy amount, over time, will disproportionally benefit large building owners like the IDS and the Mall of America. At the same time, HF4 cuts the property tax refund for renters – largely in greater Minnesota. While Minnesota renters are getting their refunds cut permanently and homeowners are getting a one-year only increase, the changes to business property taxes reflect a substantial cut and are on-going.

Another example can be found in the income tax changes: it provides significant tax relief to some of the most fortunate in our state with the social security and estate tax changes but provides little to families across the state working hard and struggling to pay the rent, buy groceries and raise their kids. The working family credit has proven to reduce poverty – kids who grow up in homes with more economic stability do better in school. This is a place where we should be investing to help ensure our future prosperity. Minnesota's economy depends on its most valuable asset – our people – and we need to invest in all of them across all areas of the state.

Specific areas of concern:

Education-related credits

We have previously shared with you a number of concerns about the changes being made to existing education related credits and the creation of a new credit for contributions to foundations related to scholarships. This provision in particular lacks accountability – unlike public schools, which are obligated to serve all children including those with special needs, private schools would be funded by this diversion of public resources. In addition, the provision to expand the K-12 subtraction and change the K-12 Credit to allow private school tuition as an eligible expense is similarly concerning as it also provides public financing of private schools through the tax code. Governor Dayton and Lt. Governor Smith are opposed to these provisions.

Governor Dayton and Lt. Governor Smith, in their budget, prioritized Minnesota's students by investing in our public schools. Their budget expands voluntary pre-K by doubling the enrollees from 3,300 to 8,300 in FY 18, invests over $600 million more dollars to provide better schools for students and families everywhere in Minnesota, and as part of that increases our investment in special education by $40 million as well as many other investments that will improve education in Minnesota.

Cigarette tax reductions

The elimination of the inflator on cigarette taxes is concerning. The purpose of the cigarette tax increase and inflator in 2013 was to balance the budget, make strategic investments in health care, education and jobs, and to reduce smoking in Minnesota, in particular among its youth. Since the increase took effect, smoking has declined, most notably among high school students.

Eliminating the inflator on this tax will make cigarettes more affordable for our youth – who are more price sensitive – years down the road. Removing the inflator would lower the cost of cigarettes over time in real dollars. The Governor is also concerned with provisions that would lower the rate for premium cigars.

The cost of this proposal is a concern as well. It will cost $10 million in this biennium but grow to $36 million in the out biennium, and will continue to grow more after that. For these reasons, the Governor and Lt. Governor have been critical of this proposal in the past and continue to oppose it.

Reducing the Property Tax Refund for Renters
The rent credit is an important benefit that helps hundreds of thousands across Minnesota – particularly seniors and people with disabilities. About 30% of rent credit recipients are seniors or people with disabilities. If adopted, HF4 will mean that 94,000 seniors and people with disabilities will see a reduction in their refund. The new approach to calculating the refund will reduce the credit particularly for greater Minnesota where rents are lower. By doing so will reduce property tax refunds by $40 million each year. It will also add increased complexity by removing the percentage on the return and put the responsibility on the landlord to report it as part of the Certificate of Rent Paid.

Estate tax
The concerns about the estate tax provision focus on the significant cost relative to impact. During Governor Dayton's time in office, Minnesota has already made important changes to the estate tax. For example, thanks to your leadership, the small business and qualified farm deductions passed in 2011 already provide relief to family farms and small businesses passed down through families. About 300 estates claim the small business and/or farm property subtraction per year. Fewer than ten estates annually claim the maximum subtraction, meaning fewer than ten are paying the estate tax each year.

In addition, in 2014 the Governor also signed an estate tax exemption increase into law, raising the exempt amount from $1 million to $2 million over five years. The exemption is already at $1.8 million and will increase to $2 million next year. That change has cut the number of estates that pay tax by about one half.

This provision in the bill will cut $162 million in estate taxes in the next biennium for about 1,100 annually, most of whom would no longer be required to pay any estate taxes. Reducing the estate tax will make our tax system more regressive, which means that middle and lower income Minnesotans will be paying for a larger share of the services we all depend on.

Private Letter rulings and assessment limitations
The provisions in article 11 on private letter rulings and assessment limitations will have significant effects on how the agency currently does its work and would have a number of negative impacts, including:

- Specialized guidance program – at a significant cost to the state – that only serves those who can afford it
- Increased burdens during audit – longer audits, more document reviews, more auditors in more business locations disrupting the ongoing business activities of our customers
- Changes to the penalty system that creates unfairness by treating those who file and pay on time the same as those who file and pay late

- Significant increases in litigation – today, only 4% of all administrative appeals heard at the Department go on to Tax Court – this bill will increase litigation costs for both the department and the State

This section carries significant costs – loss of penalty revenue of about $20 million and administrative costs of over $14 million. At a time when other legislative committees are making cuts that will dramatically reduce service to Minnesotans and threaten revenue streams, these changes will only exacerbate those challenges.

Transportation

The next area of concern deals with the shifting of revenue from sales tax on auto repair and parts to fund transportation. The Governor remains committed to reaching common ground to fund a long-term, comprehensive transportation solution that builds a better Minnesota for everyone, everywhere in our state. Governor Dayton remains concerned, however, that a solution that shifts funding from education and health care to transportation is not a sustainable solution.

Governor Dayton has proposed a transportation plan to help bridge the $6 billion state highway transportation funding gap over the next ten years with dedicated funding for roads and bridges, and increased funding for transit across the state. Road and bridge construction will be funded by a 6.5 percent sales tax on gasoline, increasing the current 1.25 percent base tax on vehicle registration fees to 1.5 percent, and increasing car registration fees by $10. Governor Dayton would also require MnDOT to spend taxpayer money in an accountable and responsible way, by finding savings of 15 percent for all new revenues, allowing the Department to do $6 billion of work for $5.46 billion in new revenue.

Social Security

The concern around the social security provisions relate to their cost and who benefits from them. In terms of cost, the growth rate on the subtraction increases very quickly. This expensive item needs to be evaluated in light of the fact that in 2014, only 35 percent of social security benefits received by Minnesotans were taxable. Nearly half of all Minnesota households with social security income paid no tax on any of that income. In addition, other seniors who have teachers, police, or nurse pensions would not have the same benefits available. HF 4 includes two increases to the exemption income cap, one for tax year 2017 and the second for tax year 2019. The second is outside the current biennium. If the higher threshold is the intended change, it should be paid for in the first biennium to fully account for it in the budget.

Research and Development Credit

As the committee takes on changes to the R&D credit, we remind you of the recent Office of Legislative Auditor report, which made several recommendations to the legislature on providing more detail on the purpose and measurement of outcomes of these provisions. This may be particularly important with the change that makes the credit refundable. We are concerned that without additional legislative direction on purpose, measurements, or results, this program will face similar results in a future OLA review.

Local Government Control

This bill contains several proposals taking decision making power away from local governments, or penalizing them based on how they choose to spend their money. These provisions place limitations on the local budgeting decisions of cities, counties, and the Destination Medical Center, creating a potential barrier to infrastructure and job growth. This includes prohibiting imposing fees or taxes on merchant-provided bags, disallowing any public money for a zip rail project between Rochester and the Twin Cities, and reducing LGA for money spent on promoting a world's fair. This bill unnecessarily micromanages local governments and takes decisions out of their hands.

The bill also treats metro and greater Minnesota counties differently by requiring voter approval for county-wide sales tax increases greater than one-quarter cent in metro counties. This requirement is not in place for counties outside the metro, and there is no clear policy reason for this distinction. These counties should be able to make their own decisions in the same way that they can in the rest of Minnesota, without the legislature throwing up various barriers to block spending at the local level that it does not agree with.

Another item of concern in the bill has to do with the proposed reverse referendum. This proposal would cause instability for local governments, and make their budgeting process unpredictable. The reverse referendum may have the opposite of its intended effect. Local governments may raise their base level budget higher than needed early on, so later if the referendum reduces the budget, it will reset to the higher base amount. We have already seen this happen when the legislature enacts levy limits. There are existing methods to involve voters in keeping their property taxes low, such as truth in taxation hearings. Increasing interest and awareness of these hearings may be a better, more stable method of achieving the goal of more citizen involvement in setting local budgets.

Implementation costs

A number of the provisions in this bill have fiscal costs for the Department to implement and administer. We are currently stretched to our very limit keeping up with increased demands in term of cost, volume of work, and new threats such as fraud. Plus, the department has about 200 fewer employees to serve the public than just a few years ago.

If the provisions in this bill were adopted, we would need additional resources to implement these changes well and give them full effect – forms changes; updating our integrated tax system; education and outreach for customers; work with software vendors; modifying our training materials for employees and customers; updating fact sheets, industry guides and revenue notices; and administering compliance with the provisions.

Of course, the nature of the policy change dictates the level of work involved. As you can imagine there is a significant difference in the amount of work related to an income threshold change relative to an entirely new credit.

We have previously been asked to provide fiscal notes on only a handful of the provisions in the omnibus bill. We have begun the process of gathering the information necessary to provide you with the administrative costs for the remaining provisions.

Fiscal responsibility

This bill will cost the state over $1.7 billion in this biennium and $2.2 billion in the next. This includes the provisions that divert $450 million in FY18-19 and $707 million in FY20-21 to transportation, further reducing the general fund. Costs will go up dramatically in the out years. That is because items like eliminating the inflators and the change to social security grows significantly beyond the budget window.

For example, it is important to note that the full impact of the levy freeze cannot be reflected in the window: removing the inflator would not be a significant cost in the first year. However, in five years it will cost $100 million (by FY2022) and $247 million per year by FY2027. The freeze will cost over $1.2 billion over 10 years.

Particularly as we look at significant uncertainty in our state's forecast and from federal policy changes, we need to take a cautious approach to our budget outlook and freezing the levy puts Minnesota's fiscal health at risk.

The Governor and Lt. Governor are committed to sound budgeting that maintains Minnesota's fiscally responsible financial state. HF4 does not meet that standard.

Moving Forward

The Department is eager to continue the conversation about the size and content of a tax bill that the Governor can sign. We look forward to discussing the above provisions and other provisions in the bill that may have limited effectiveness or create unintended consequences. We welcome any opportunity to discuss these issues so that we can best serve Minnesota.

Sincerely,

Cynthia Bauerly
Commissioner

DEPARTMENT OF REVENUE

April 4, 2017

Senator Roger Chamberlain
Chair, Senate Taxes
3225 Minnesota Senate Building
95 University Avenue W
Saint Paul, Minnesota 55155

Senator Ann Rest
Ranking Minority Member, Senate Taxes
2217 Minnesota Senate Building
95 University Avenue W
Saint Paul, Minnesota 55155

Dear Mr. Chairman and Senator Rest:

As the Senate Omnibus tax bill moves forward, I write to express our views on the bill's overall cost and content. As I shared with you in committee, the Senate bill takes a different approach than the Governor's bill which maintains a fiscally responsible budget while investing in our future workforce and providing targeted tax relief for those most in need.

First, I do want to thank you for including several items found in the Governor and Lt. Governor's tax bill. The School Building Bond Agricultural Credit will help farmers by paying 40 percent of their property taxes attributable to that levy. Several other items from the Governor and Lt. Governor's tax bill are also included in the Senate bill:

- Minnesota State High School League Exemption
- Estate Tax Recapture Related to Eminent Domain
- Madelia Rebuild Sales Tax Exemption
- Property tax exemption for St. Paul Soccer stadium
- Numerous Department of Revenue's policy and technical provisions

We also appreciate the inclusion of a number of key provisions for local governments who provide essential services: local government aid, county program aid, debt services equalization, and Indian Child Welfare Act Aid. We do hope, however, that as we move forward we can include these provisions on an ongoing basis at adequate levels so that cities and counties are able to plan and budget for projects for the future rather than one time projects.

A provision added on the floor, however, undermines the LGA and CPA programs for all localities. Despite the fact that Minneapolis has the largest population of any Minnesota city and its services provide value to all Minnesotans that visit and work in the city, this bill arbitrarily cuts its local government aid by $28 million. There is no policy reason for this targeted cut to the program. And, by making an arbitrary cut outside of the established formula, it threatens the viability of this important funding stream for local governments and the services they provide to Minnesotans.

Unfortunately, the Senate bill does not include a number of priorities in the Governor and Lt. Governor's tax bill. The Governor's tax bill prioritizes tax cuts for middle class families and those struggling to get into the middle class. Their bill, even given its size, will help over 450,000 people, and ensures significant investment in education, while leaving money for contingencies that are facing our state.

Most importantly, the expansion of the Working Family Credit is not included in the Senate bill. The Governor and Lt. Governor included in their bill the expansion proposed in the Senate last year and carried by the Senate in its 2016 omnibus tax bill. This credit helps working families across Minnesota pay for basic needs and is a proven tool to fight poverty. It will help 370,000 workers across Minnesota. Its absence from the Senate bill is disappointing.

The Governor's and Lt. Governor's bill also proposed expanding the Child and Dependent Care Credit to help more Minnesota families pay for high-quality care for their children. The expansion will mean that 95,000 families across Minnesota will benefit from the credit. It is also unfortunate that two programs to smooth the transition for the buffer requirements in current law – buffer compensation payments and riparian aid to counties and watershed districts – were not included.

Finally, a number of other important provisions from the Governor and Lt. Governor's bill are not included, among them:

- reforms to level the playing field for all businesses by closing loopholes;
- railroad property tax modernization;
- increasing the military service credit for lower income veterans that served for 20 years or have a service-related disability;
- sales tax exemption for a siding facility;
- Angel Investment Credit expansion;
- expanding the sales tax to more nonprofits;
- updates to sustainable forest incentive act; and
- an update to vapor products and tobacco tax provisions.

Overall priorities

When Governor Dayton took office in 2011, Minnesota faced a $6 billion budget deficit. Now, after six years of making tough, responsible choices, Minnesota is finally on sound fiscal footing. Our state has $1.65 billion on its bottom line and nearly $2 billion in reserves to protect Minnesota from future economic downturns. This bill will cost the state $900 million this biennium and $1.1 billion in the next and grow in the future, setting the state up for fiscal uncertainty. With its size, this bill prioritizes unsustainable tax cuts now and into the future over investments in prekindergarten, higher education, and economic development that will grow opportunities for hard working Minnesotans in our state.

Upon comparison of several provisions, the composition of the bill is concerning. For example, in the area of property tax: compare the impact of the changes to the commercial-industrial (C/I) levy changes and those to individual taxpayers. In the near term, the C/I levy changes will allow all businesses to reduce their property taxes with the exclusion of the first $100,000 of value. The freeze to the levy amount over time however, will disproportionally benefit large building owners like the IDS and the Mall of America.

For income tax changes: it provides significant tax relief to some of the most fortunate in our state with the social security, foundation tax credits, and estate tax changes totaling over $350 million by the time these provisions are fully in effect. The bill provides little, however, to hard working families across the state, struggling to pay the rent, buy groceries, and raise their kids. While the bill does include an income tax rate cut, this tax cut ends up being less than $10 a month for most Minnesota families. And, many families who receive even less actually need it more – those earning under about $30,000 will see a much smaller tax cut than those earning $150,000-250,000, in both average benefit and as a percentage of income.

The Governor took a more targeted approach, recommending increases to the Working Family Credit and Child and Dependent Care Credit, providing more help to those that need it. The working family credit has proven to reduce poverty – kids who grow up in homes with more economic stability do better in school. This is a place where we should invest to help ensure our future prosperity. The Child and Dependent Care Credit provides assistance to families paying the high cost of childcare, and the Governor's proposal could provide $1,200 to a family of four earning $50,000 paying qualifying expenses. Minnesota's economy depends on its most valuable asset – our people – we need to assist those who we know are working hard but could still use some help.

Specific areas of concern

Education

I would like to convey a number of concerns about the changes being made to existing education related credits and the creation of a new credit for contributions to foundations related to scholarships. The foundation donation credit, in particular, lacks accountability. Two amendments were added on the floor to require recipient schools to comply with laws that prohibit discrimination against, and requires educational opportunities for, students with disabilities and Minnesota's anti-bullying law. These are important steps; however, there are many other requirements placed on public schools whose obligation is to serve all children, including those with special needs. Governor Dayton and Lt. Governor Smith are opposed to this provision that would allow for diversion of public resources to private schools.

Governor Dayton and Lt. Governor Smith, in their budget, prioritized Minnesota's students by investing in our public schools. Their budget expands voluntary pre-K by doubling the enrollees from 3,300 to 8,300 in FY18; invests over $600 million more dollars to provide better schools for students and families everywhere in Minnesota; and as part of that to increase our investment in special education by $40 million as well as many other investments that will improve education in Minnesota. These provisions provide direct funding for education in Minnesota, something the Senate tax bill does not accomplish.

Estate tax

Concerns about the estate tax provision are focused on the cost relative to impact and the full cost, which is phased in over time. During Governor Dayton's time in office, Minnesota has already made important changes to the estate tax. The small business and qualified farm deductions passed in 2011 already provide relief to family farms and small businesses being passed down through families. About 300 estates claim the small business and/or farm property subtraction per year. Fewer than ten estates annually claim the maximum subtraction, meaning fewer than ten are paying the estate tax each year.

In 2014, the exemption amount increased from $1 million to $2 million over five years. The exemption is already at $1.8 million and will increase to $2 million next year. That change cut the number of estate taxpayers by about one half. This provision will cut taxes for about 1,100 annually, most of whom would no longer pay any estate taxes under this provision. Reducing the estate tax will make our tax system more regressive, which means middle and lower income Minnesotans will be paying for a larger share of the services we all depend on.

Social Security

The concerns with the Social Security provision again relate to who is benefited, and cost relative to the number of Minnesotans who benefit. In 2014, only 35 percent of social security benefits received by Minnesotans were taxable. Nearly half of all Minnesota households with Social Security income paid no tax on any of that income. Nevertheless, this provision will provide $36 million per year to those relatively few seniors. In addition, there are other seniors – who have teachers, police, and nurses pensions – who would not have the same tax benefit available for their retirement income. We appreciate the amendment on the floor to study the issues related to other pensions. However, it would be prudent to have all of the information related to all types of retirement income before making the change proposed in this bill.

R&D

With respect to the R&D credit changes, I would like to thank the committee for bearing in mind the recent Office of Legislative Auditor report, which made several recommendations to the legislature on providing more detail on the purpose and measurement of outcomes of these provisions, particularly in regards to refundability. However, we do believe that if an election to take the simplified calculation for the R&D credit is taken, that election should apply for five years, rather than be subject to change at any time.

Implementation costs

A number of the provisions in this bill have fiscal costs for the Department to implement and administer. Given our current budget, we are currently stretched to our very limit keeping up with increased demands in terms of cost, volume of work, and new threats such as fraud.

If the provisions in this bill were adopted, we would need additional resources to implement these changes well and give them full effect. This would include forms changes; updating our integrated tax system; education and outreach for customers; work with software vendors; modifying our training materials for employees and customers; updating fact sheets, industry guides and revenue notices; and administering compliance with the provisions.

Of course, the nature of the policy change dictates the level of work involved – as you can imagine there is a significant difference in the amount of work related to an income threshold change relative to an entirely new credit.

We have previously been asked to provide fiscal notes on only a handful of the provisions in the omnibus bill. We have begun the process of gathering the information necessary to provide you with the administrative costs for the remaining provisions.

Fiscal responsibility

This bill will cost the state over $900 million in this biennium and $1.1 billion in the next. Costs will go up in the out years and will cost the state over $6.2 billion over 10 years. That is because items like eliminating the inflator on the C/I levy and the estate tax reduction grow significantly beyond the budget window.

For example, it is important to note that the full impact of the levy freeze cannot be reflected in the window: removing the inflator would not be a significant cost in the first year. However, in five years it will cost $100 million (by FY2022) and $247 million per year by FY2027. The freeze will cost over $1.2 billion over 10 years. Particularly as we look at significant uncertainty in our state's forecast and from federal policy changes, we need to take a cautious approach to our budget outlook and freezing the levy puts Minnesota's fiscal health at risk.

In addition, the full effect of the estate tax cut will not take place until FY2023. In that year, it will cost the state over $100 million.

The Governor and Lt. Governor are committed to working toward a tax bill as a component of an overall budget that maintains Minnesota's fiscally responsible financial state.

Moving Forward

The Department is eager to continue the conversation about the size and content of a tax bill that the Governor can sign. We look forward to discussing the above provisions and other provisions in the bill that may have limited effectiveness or create unintended consequences. We welcome any opportunity to discuss these issues so that we can best serve Minnesota.

Sincerely,

Cynthia Bauerly
Commissioner

Minnesota Department of Education

April 3, 3017

Senator Roger Chamberlain, Chair, Senate Taxes Committee
Minnesota Senate
95 University Ave. W.
Minnesota Senate Bldg., Room 3225
St. Paul, MN 55155

Dear Senator Chamberlain,

I am writing concerning Senate File 2255. I would like to take this opportunity to voice my strong opposition to the proposal in the tax bill to fund private school tuition through vouchers.

The vote you are about to make is one that will do harm to Minnesota students. It disproportionately impacts the students we most want to help—students with disabilities, American Indian children, poor kids, English learners, and kids who are either credit deficient or behind.

Private schools can decide their admission policies and have no requirements of whom they admit. This has an especially large impact on our students requiring special education, who often have services or staffing requirements that are costly to schools. Federal law protects students in public schools from getting turned away. Public schools do the right thing and provide the resources necessary to meet an individual's needs even though they know the total costs will be under-funded and have to be made up elsewhere in the budget because state and federal funding fall short. Private schools can simply deny access to our students with disabilities. We have no way of holding private schools accountable for fairness in their admission policies.

This is true for any other discriminatory practices toward others, such as black or native students, Hispanic or immigrant children, or LGBT students or their parents. Private schools fought hard to be removed from coming under the requirements of our anti-bullying law, and we have no data to show us how they are serving all of our student groups equitably. This bill provides no way of holding private schools accountable for treating all students equally, as is required of our public schools under federal and state law.

Voucher proponents often argue that private schools serve our students better than our public schools, but there is no proof to back this up. To receive such large sums of public funding, private schools should be required to administer the Minnesota Comprehensive Assessments to their students so we can evaluate the effectiveness of their education services on the same playing field as public schools. We evaluate the effectiveness of investments in other forms of choice, like charters or open enrollment choices, and we know that they don't necessarily always do better academically. Students who are given a voucher to attend a private school simply must be given the same tests as public school students so that we really know how they are doing and are held to the same academic standards.

Our constitution guarantees a "uniform system of public schools." It would be better to fully fund our public schools before providing more funding to private schools. Private schools are already well funded with public money for textbooks, nurses, counselors, transformation, Postsecondary Enrollment Options, Advanced Placement, International Baccalaureate, ACT and federal funding, in addition to the tax break already in law for private school reimbursements.

We all care about closing achievement gaps, but we can't pretend this is good for poor kids and kids stuck in the gap. There is no evidence or real research that supports this claim. Just look to our neighbors to our east who have had vouchers for over a decade and their results for kids stuck in the gap and you will see they fair worse than Minnesota and it has left their public schools woefully under-funded and unequal.

Minnesota is a national leader in choice. We have public charter schools, magnet schools, private schools, homeschools, alternative schools, post secondary enrollment options, concurrent enrollment, tribal schools, and open enrollment to any public school of your choice.

I want to be absolutely clear: vouchers will simply not help us close the achievement gap or improve real choice for poor kids.

If this is truly about helping poor families through a tax cut, then better approaches include the child care tax credit, the working family tax credit, or some other tax targeted to help the families that really need it. Not vouchers. Take this nearly $36 million in the 2018-2019 biennium and use it to increase the E-12 target.

I strongly urge you to vote no to undermining our public schools. The more than 90 percent of Minnesota students who attend our public schools are counting on you.

Sincerely,

Dr. Brenda Cassellius
Education Commissioner

cc: Sen. Ann Rest, Minority Lead, Senate Taxes Committee

April 12, 2017

The Honorable Bob Gunther
Chair, House Legacy Funding Finance Committee
563 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155

Dear Representative Gunther:

As the House Omnibus Legacy Bill, HF 707, is off the floor and awaiting conference committee, we write to share our perspectives on some of the bill's provisions as well as on a floor amendment that raises serious concerns for efficient fiscal management across all of the Legacy funds.

We appreciate your hard work and diligence in assembling this complex bill for the four Legacy funds. We have concerns, however, that the bill does not support the Governor's Clean Water Fund recommendations. This letter speaks primarily to the Clean Water Fund. The Executive Branch agencies will submit separate letters addressing HF 707's provisions specific to the other three Legacy funds.

If HF 707 as passed off the House floor were enacted, we anticipate the following negative consequences related to the Clean Water fund and efficient fiscal management across all Legacy funds:

Conservation Reserve Enhancement Program and Targeted Wellhead Protection: The Conservation Reserve Enhancement Program provides voluntary, on-the-ground conservation implementation that targets the most critical areas for pollution reduction. The Governor's recommendation is $18 million for the Conservation Reserve Enhancement Program; this bill is now zero. Additionally, the Targeted Wellhead/Drinking Water Protection Easements provide much needed resources through the Board of Water and Soil Resources for ensuring our drinking water sources remain safe into the future. HF 707 cuts $3.5 million - the entire program - which was to be used for the Conservation Reserve Enhancement Program wellhead protection areas. This action threatens the safety of our drinking water, especially in rural Minnesota.

These two actions cut a total of $21.5 million for the Conservation Reserve Enhancement Program from this fund. The Conservation Reserve Enhancement Program has received strong bi-partisan support for its locally driven, targeted implementation. Shifting the Soil and Water Conservation Districts' capacity dollars from the Board of Water and Soil Resources' general fund appropriation to the Clean Water Fund has the consequence of significantly reducing the amount of on-the-ground conservation projects and landowner assistance. It means an additional $50 million in federal Conservation Reserve Enhancement Program match would be jeopardized. In addition, continuing to fund Soil and the Water Conservation Districts' capacity through the Clean Water Fund is in clear contradiction to the plan from 2015, when use of Clean Water Fund dollars were identified as an interim measure, with Soil and Water Conservation Districts' capacity funding to come from the general fund in future years.

Riparian Aid to counties and watershed districts was in the Governor's tax bill at $10 million per year. Now there is a $2 million per year Clean Water Fund appropriation to the Department of Revenue. This amount is insufficient to get local governments to accept jurisdiction to ensure riparian buffers are in place.

Minnesota Agriculture Water Quality Certification Program: The proposed cut to the Department of Agriculture's Minnesota Agricultural Water Quality Certification Program will have a dramatic negative effect on rural Minnesota and Minnesota's farmers, and will result in a direct loss of more than $5 million in federal funds.

Clean Water Funds for the Minnesota Agriculture Water Quality Certification Program serve as a match for federal dollars. In order to access $5,288,000 in federal funds, the Minnesota Agriculture Water Quality Certification Program must receive at least $5 million in Clean Water Funds over the next biennium. If the program is funded at less than $5 million, none of those federal dollars will be available. Since the federal funds are distributed directly to farmers and landowners to help offset the cost of installing water quality protection practices, farmers and rural Minnesotans are those most hurt by this cut.

The Minnesota Agriculture Water Quality Certification Program is a remarkable success story. In just a little more than one year (after 2 years of piloting), 365 farms and more than 211,000 acres have become certified. Farmers have implemented more than 625 conservation practices resulting in more than 12 million pounds of sediment and 7,414 pounds of phosphorus being kept out of Minnesota's waters annually. Some 350 additional farms are awaiting certification. We support the Governor's recommendation to fund this highly effective program at $5.5 million over the next biennium.

Watershed Restoration and Protection Strategies Program: Minnesota Statute 114D.26 requires the Pollution Control Agency to develop Watershed Restoration and Protection Strategies for each of the 80 major watersheds in Minnesota every 10 years; therefore, the Pollution Control Agency develops eight Watershed Restoration and Protection Strategies per year. Cutting more than $1.4 million from this program means that the Pollution Control Agency will not be able to meet this statutorily required 10-year schedule.

Watershed Restoration and Protection Strategies provide essential water resource information that our local government partners find invaluable for the development of their local water management plans. As we transition to the Board of Water and Soil Resources' 1 Watershed/1 Plan program, if Watershed Restoration and Protection Strategies development is slowed down, then meaningful data and information will not be available for our local partners to use in their own specific plans. Effective targeting of Clean Water Fund implementation dollars where they can do the most good to reduce pollution and enhance protection of Minnesota's water and soil will be diminished. We support the Governor's recommendation to fund this program at $20.463 million over the next biennium.

Floor Amendment Pertaining to Overhead Costs: The House floor amendment pertaining to overhead costs is of concern to agencies that receive Clean Water Fund dollars and to Minnesota Management and Budget. As pointed out in the recent Legislative Auditor report, and as indicated in a 2014 OLA report, the "directly related to and necessary for" language is not well defined in statute. Thus, it has been confusing and difficult to administer. We agree that clarifying this language would be helpful. However, this amendment does not solve this problem and in fact creates even more problems for the agencies and for grantees. There are many complexities of federal and state rules and practices involved, but briefly, the overarching problems with this amendment include:

- Exempting Legacy Funds from paying Statewide Indirect Costs charged by MMB would result in an approximately $1 million cost to the General Fund in FY18-19 by reducing forecasted non dedicated receipts. This cost should be tracked.
- The federal government recognizes overhead costs are directly related to and necessary for the operations of federally funded programs at the state. Therefore, federal rules require equitable

allocation of these costs across all funds. This amendment would prohibit Legacy Funds from paying their fair share of the overhead costs, so the General Fund and other state funds would have to pay more. These additional costs to state funds should also be tracked.

- This language was not properly vetted in committee so that the public, grantees, agencies and all stakeholders could weigh in.

Thus, while we agree with the desire to add clarity regarding "direct and necessary," this amendment does not solve the problem and instead creates new problems. We believe a broader dialogue is needed, including a thorough public vetting, to resolve the "direct and necessary" issue for all Legacy funds.

We would like to discuss all of the above concerns with you, so we can together achieve a solid Legacy bill this year to the benefit of all Minnesotans.

Sincerely,

John Linc Stine
Commissioner
Minnesota Pollution Control Agency

David Frederickson
Commissioner
Minnesota Department of Agriculture

John Jaschke
Executive Director
Minnesota Board of Water and Soil Resources

Thomas Landwehr
Commissioner
Minnesota Department of Natural Resources

Edward Ehlinger
Commissioner
Minnesota Department of Health

Myron Frans
Commissioner
Minnesota Management and Budget

Adam Duininck
Chair
Metropolitan Council

cc: Majority Leader Paul Gazelka, MN Senate
Minority Leader Tom Bakk, MN Senate
Speaker Kurt Daudt, MN House of Representatives
Minority Leader Melissa Hortman, MN House of Representatives
Members of the House Legacy Committee:
Rep. Sandy Layman, Vice Chair
Rep. Leon Lillie, DFL Lead
Rep. Dario Anselmo
Rep. Mike Freiberg
Rep. Steve Green
Rep. Mary Murphy
Rep. Paul Thissen
Rep. Paul Torkelson
Rep. Dean Urdahl
Rep. Jean Wagenius
Rep. Anna Wills
Rep. Jim Knoblach, ex-officio
Anna Henderson, Governor Mark Dayton's office
Stephanie Zawistowski, Governor Mark Dayton's office
Clean Water Council Chair Frank Jewell, St. Louis County Commissioner
Clean Water Fund Interagency Coordination Team:
Chris Elvrum, Minnesota Department of Health
Jeff Freeman, Public Facilities Authority
Barb Naramore, Minnesota Department of Natural Resources
Sam Paske, Metropolitan Council Environmental Services
Dan Stoddard, Minnesota Department of Agriculture
Susan Stokes, Minnesota Department of Agriculture
Doug Thomas, Minnesota Board of Water and Soil Resources
Rebecca Flood, Minnesota Pollution Control Agency

April 13, 2017

Dear House and Senate Leadership and Committee Chairs:

As we begin to work through the omnibus bills, the administration would like to express concerns with rulemaking, data practices, and other provisions contained within proposed legislation. There are multiple bills and provisions that would limit the ability of our agencies to properly function to ensure Minnesotans receive the best services possible.

This administration's core mission is to serve Minnesotans. The purpose of the rulemaking process is to allow agencies to use their expertise to implement legislation with clear, specific rules when authorized by the Legislature. The rulemaking process is designed to allow agencies to write substantive standards using their experience and expertise and provide opportunities for meaningful public input. We all share the same goal of ensuring state government is efficient, responsive, and streamlined and accessible to the public. We ask that you strongly oppose the proposals listed in this letter.

The following policy provisions pose problems for rulemaking that significantly delay implementing rules, eliminate government transparency, and end up costing Minnesota taxpayers more:

- **Requiring Legislative Approval for the Adoption of Rules (Senate State Government Bill, SF 605).** Minnesota's current rulemaking process already provides for full participation by all interested parties, including the public, agencies, and the legislature. SF 605 adds an additional time-consuming step that will increase costs and efforts as agencies await legislative action, which can occur only during session. If the legislature delays approving a proposed rule, or fails to approve a rule, the situation would be further exacerbated. State agencies have the subject matter expertise to develop and work with interested stakeholders to produce workable rules that are necessary to implement the laws passed by the legislature. The Office of Administrative Hearings (OAH) performs an independent legal review to ensure agencies have the authority to adopt every rule agencies propose as part of its legal review process. The Chapter 14 rulemaking process requires many states and months of work. Under existing law, if the legislature has concerns with an adopted rule, the legislature can pass a law to address those concerns or repeal the rule. It is also important to note that state agencies only have rulemaking authority to the extent that the legislature grants it to them. The legislature always has oversight. Passing a law that hinders the rulemaking process for all in Minnesota by waiting for legislative approval is unnecessary. Both Governor Dayton and Governor Pawlenty have vetoed similar legislation in the past for these exact reasons. Here are just two examples of how this policy causes issues within agencies:

  - **The Minnesota Department of Health and the Minnesota Department of Agriculture** jointly administer Minnesota's Food Code, Chapter 4626. The agencies are currently revising the entire code for the first time since 1999. This revision has been underway for several years and is approaching completion. Food establishments, grocery stores, and the hospitality industry have been heavily involved in shaping outdated rules to meet current needs as well as the agencies' need to better protect public health. Further delay would hamper everyone in the state.
  - **The Minnesota Department of Human Services** has over 60 sets of rules that it has implemented to govern the agency and its programs. Many of these rules, like those governing the Child Care Assistance Program, affect children and families living in Minnesota. The Child Care Assistance Program helps low-income families afford child care for over 29,700 Minnesota children each month, to allow parents to work or go to school with the assurance that their children are well cared for and prepared for school. DHS is currently seeking legislative authority to bring Minnesota into conformity with updated federal laws and regulations for the Child Care Development Block Grant and Child Care Development fund. If DHS is granted the authority, the agency can work quickly to make requisite changes in the rules governing the Child Care Assistance Program to take full advantage of the federal benefit. Obtaining further approval from the legislature once changes are made will create considerable challenges, delays, and costs for implementing this important program that serves a significant number of children and families in Minnesota.
- **<u>Disposition of Contested Case Hearings by the Administrative Hearings Office (Senate State Government Omnibus Bill, SF 605).</u>** Shifting decision-making authority in contested cases to the Office of Administrative Hearings for administrative law judge (ALJ) disposition undermines agencies' ability to apply their technical expertise and experience. Administrative law judges have honed legal expertise and fact-finding skills. ALJs, however, do not possess the technical background or specific knowledge critical to agency decisions. For these reasons, Governor Dayton vetoed similar legislation in the past.
  - Permitting decisions by the **Department of Natural Resources** involve such diverse technical areas as hydrology, hydrogeology, dam-safety engineering, and mining. Judicial deference to agency decisions presumes that the agency decision-maker has the expertise necessary to decide technical matters within the scope of the agency's authority. Making the ALJ the final decision-maker would eliminate the foundation of technical training, education, and experience underlying this principle of deference. The ALJ also would not have knowledge of, or access to, the body of past permitting decisions to ensure consistency among permittees when making permitting decisions. The proposed change does not appear to include a mechanism for an agency to seek judicial review from an adverse or technically deficient ALJ decision.
  - The Veterans Preference Act, administered by **the Minnesota Department of Veterans Affairs**, excludes certain positions from Veterans Preference protections. In one case, the question was whether a Veteran's position fell within one of these exceptions. The ALJ took a broad view of what kinds of positions were excluded and recommended that the Veteran's position was not entitled to protection. The Commissioner took a more narrow view of who was excluded, and reversed the ALJ.

The Commissioner looked at this particular Veteran's circumstances, the type of work he was actually performing, and the nature of this particular workplace to determine that the Veteran's job did not fall within the exception and that he was entitled to a hearing before he could be terminated. With this proposed change, this would not be allowed.

- **Requiring determination of impacts of proposed rules (Senate State Government Omnibus Bill, SF 605 and House Jobs Omnibus Bill, HF 2209).** Requiring agencies to determine whether a proposed rule will increase the cost of a new home by more than $1,000 will seriously jeopardize the ability to adopt new building codes within the two-year statutory deadline. Additional time will be required to provide a detailed cost analysis of each code requirement and justify the determinations. Adopting new building codes into law as quickly as possible is important to the homebuilding and remodeling industries, so they can implement the latest advancements in building methods and materials. Further, adoption of new building codes allows for new systems and technologies which can result in cost savings for homeowners, some of which may be realized later as is often the case with increased energy efficiency. Here are some examples of clarifications or reduction of requirements that were accomplished by adopting the last Residential Building Code:
    - Lowered the minimum ceiling height permitted in existing basements and stairways to 6'4" to accommodate existing older housing and allow them to finish these spaces legally.
    - Allowed bedroom escape windows to be replaced with like-in-kind size without having to perform costly reconstruction to fit new "code-size" windows.
    - Clarified that basements do not need more than one escape window as long as they are provided in any basement bedrooms. This prevents costly mis-interpretation of the code.
    - Clarified that window-fall protection devices are not required if just replacing existing windows.
    - Added an exception that, in addition to concrete, allows garage floors to be constructed of sand, gravel, crushed rock, or natural earth. This less costly alternative is especially warranted in Greater Minnesota for storage of vehicles, equipment, machinery, etc.

  While this provision may be intended to impact only the agencyor agencies that deal with the Minnesota Residential Code, its effect is to require every agency to determine whether any rulemaking will on average increase the cost of a new home by $1,000 or more. This is wasteful, costly and unnecessary.
- **Amending the Administrative Procedure Act (House State Government Omnibus Bill, HF 691).** Amending the Administrative Procedure Act (APA) is extremely troublesome. Rulemaking authority is assigned to agencies to work out the details for implementing the overall policy that the Legislature sets in statute. Agencies apply expertise to the subject matter that require specialized knowledge. Agencies have focused on increased efficiency in carrying out duties, including improving the timeliness of their work, and reducing the costs to do it. The APA process allows for full public participation. The Legislature has multiple ways to be involved with rulemaking. More specifically, Article 4 of HF 691 is troubling because it adds costs and inefficiency without adding value in the following ways:

- Allows the legislature to object to proposed rules, another way of requiring legislative approval of rules.
- Changes the standard so that all proposed rules must be performance-based, which is not always realistic.
- Adds a definition of "substantial economic impact," which triggers creation of the panels described below to review the rules, so that rules cannot take effect until the legislature approves them.
- Changes the legal reviewing standard for interpretative statements in enforcement challenges to be "without deference" to the agency and imposes a presumption on the agency that it must overcome.
- Requires the EQB, PCA, DNR, and MnDOT to explain why their mandatory environmental assessment worksheets or impact statements should not be eliminated.
- Eliminates agency authority to subsequently amend or repeal rules without obtaining additional rulemaking authority.
- Requires the agency, if its proposed rule has substantial economic impact, to submit the rule to a five-person peer-review advisory panel at agency expense, as well as preventing the rule from taking effect until the legislature enacts a law. It also removes existing exemptions.
- Allows legislative committees to request the legislative auditor to conduct an impact analysis of the proposed rule using a review panel, and if substantial economic impact exists, the agency cannot move the rule forward until a date 12 to 18 months later.
- Condenses and revises the eight regulatory analyses required in the statement of need and reasonableness (SONAR) into five, expanding the analysis into greater technical detail and requiring additional, expansive research, all at greater expense of time and money.
- Removes the exclusion for the time that the legislature takes to approve rules from the agency's time limit for completing rulemaking so that rules could expire without being adopted.
- Removes the agency's ability to request that a petitioner post a bond when challenging agencies for enforcing possible un-adopted rules.
- Allows a petitioner challenging the validity of any agency policy, guideline, or bulletin that the petitioner believes might be a rule, to sue directly in the Court of Appeals and suspends enforcement action until the Court of Appeals rules, all at agency expense.

Under the proposed changes, economic impact trumps all other concerns, such as consumer protection, human health, and privacy issues, when looking at the merits of a proposed rule. These changes alter the separation of powers between the legislative and executive branches by giving the Legislature the ability to veto rules, which raises constitutional concerns. In addition, this alters the checks and balances between the two legislative bodies in some cases, allowing a committee of one legislative body to delay a rule the other body might want. As mentioned before, Governor Dayton and Governor Pawlenty have both vetoed the legislative approval of rules.

This administration remains dedicated to ensuring transparency in State Government, however the following proposed policy changes are concerning:

- **Setting Records Retention for Agencies & Official Records (SF 719/HF 1185).** Current law in the Official Records Act and Records Management statutes works effectively. Government entities are in the best position to determine what their own official records are and how long those records need to be maintained based on the mission and unique business needs of each entity. An additional three-year retention mandate will vastly expand unnecessary bureaucratic requirements and add significant cost to every records transaction within the state. Here are some examples of how data retention policy changes will affect agencies:
  - **The Department of Transportation** generates about 1.2 million emails per month and the rate is increasing. This bill would require MnDOT to maintain those emails (because email fits the definition of communication).
  - **Minnesota Pollution Control Agency** currently has 19.2 million records that are available for public inspection. This bill would add at least another 6.6 million records that MPCA would have to manage. In addition to the expense of storing these extra records for 3 years, there would be a huge staff cost for sorting the email for any data practices request.
  - **The Department of Education's** School Safety Technical Assistance Center team and other divisions, in particular compliance and assistance, frequently email each other about how to respond to concerns presented to them by parents or schools. Often a parent will email with a very specific concern about something happening with their child at school and the two divisions will brainstorm together by email how to respond and help the parent. The final response might be an official record, but the intra-agency work deciding how to categorize the problem, who is the best division to respond and how is not an official record. These emails would be retained under the proposed bill requiring additional staff time and more costs.

- **Modifying Electronic Access (Senate & House Data Practices Omnibus Bill, SF 817/HF 857).** Under Minnesota Statutes, section 13.15, all Minnesota government entities are required to protect the identity of any person who accesses that government entity's computer to gain access to, or transfer data, or information, or to use government services. The identities of citizens, employees of private organizations, and government employees are all protected. The proposed changes found in HF 857/HF 1701/SF 2026 would remove this classification of data for Minnesota government employees, making their identities public under the presumption in section 13.03. Below are examples of why this is not acceptable for the safety of government employees:
  - **Discrete Active Investigations.** This proposed law could undermine discrete active investigations. As part of the ongoing investigation, the government employee (state or local) may run queries into different databases to get information needed for the investigation. If the subject of the investigation makes a request for the computer access information, the subject could find this recent activity and learn that the investigation is occurring and frustrate the process.

- **Large-scale criminal investigations.** The State Patrol and the Bureau of Criminal Apprehension are involved with large-scale drug investigations often in partnership with local law enforcement. Drug traffickers could easily use data requests to ascertain the number of queries on a license plate as counter-surveillance to find out the best routes for drug trafficking. They could also identify the law enforcement officers around Minnesota who are routinely in a certain area running plates, causing a safety concern for those officers. This is also true for other large-scale criminal operations like fraud investigations.
- **Undercover Officers.** If an undercover officer runs a query on an individual in one or more of the computer systems available in support of criminal justice activities, that individual could make a request, identify that officer and potentially "out" them, jeopardizing their safety and making it impossible for them to work undercover. This concern applies to all undercover law enforcement officers working around the state for various law enforcement agencies, state and local. Agencies such as departments of Natural Resources, Public Safety, and Commerce all have undercover officers that can be exposed to danger.
- **Compliance and Enforcement.** This language could be an issue in compliance and enforcement cases, where staff at any level of government often have to access information that is not public, but the staff's names who did the accessing of the information are public.
- **Exposure of Individual and Agency Data to Hacking.** Agencies use the current statute as a basis for redacting data including user names, passwords, and IP addresses. If made public, these are the elements cyberterrorists need to gain entry to sensitive state systems, as well as personal information (e.g. W2 forms).
- **Protecting Public Servants**. Government employees who interact with citizens are routinely harassed on a personal basis. Examples include mailing threatening legal documents, threats towards personal safety, and threats or attempts to place liens on their homes. These individuals could request public data each month and target any government employee who accessed the individual's data in the course of performing their official duties. State employees are also Minnesota citizens and deserve the same protections as other Minnesota citizens

In closing, we as an administration oppose any bill with these provisions as they diminish rather than help us carry out our obligations to Minnesotans. Essentially, these provisions will result in irresponsible governing and cause further confusion to Minnesotans looking for clear guidance. Thank you for your consideration of this feedback. Should you have any questions, we all stand available to answer them at any time.

Sincerely,

Signatures on next page

Commissioner Matt Massman

Commissioner David Frederickson

Commissioner Mike Rothman

Commissioner Tom Roy

Commissioner Brenda Cassellius

Commissioner Shawntera Hardy

Dr. Edward Ehlinger

Commissioner Larry Pogemiller

Commissioner Kevin M. Lindsey

Commissioner Emily Piper

Commissioner Mark Phillips

Commissioner Ken Peterson

Commissioner Myron Frans

Commissioner Josh Tilsen

Chair Adam Duininck

Adjutant General Richard Nash

Commissioner May Tingerthal

Commissioner Thomas Baden

Commissioner Thomas Landwehr

Commissioner John Stine

Commissioner Ramona Dohman

Commissioner Cynthia Bauerly

Commissioner Charlie Zelle

John Jaschke

Commissioner Larry Shellito