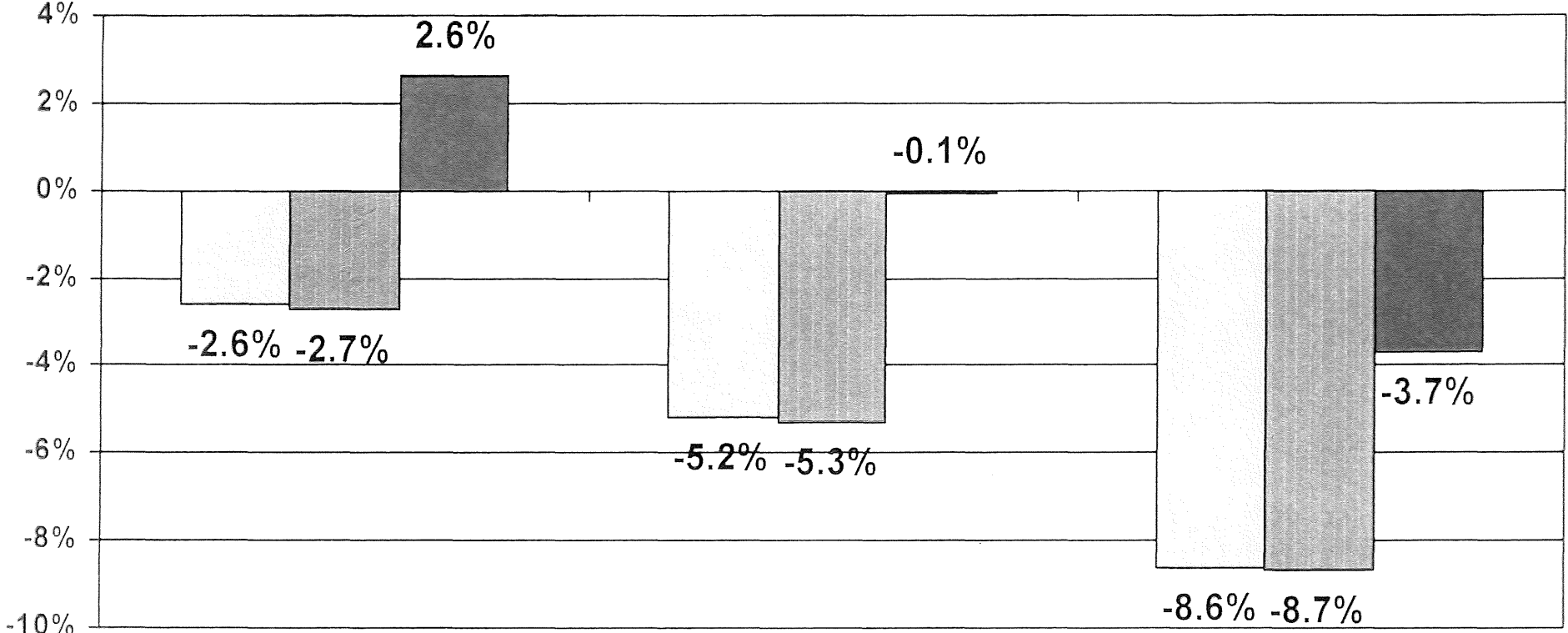


Projected Percent Change in Real Per Capita State General Fund Spending from FY 2004-05 to FY 2006-07 and from FY 2002-03 to FY 2006-07 under Governor, House, & Senate proposals



Percent change from FY 2004-05 to FY 2006-07

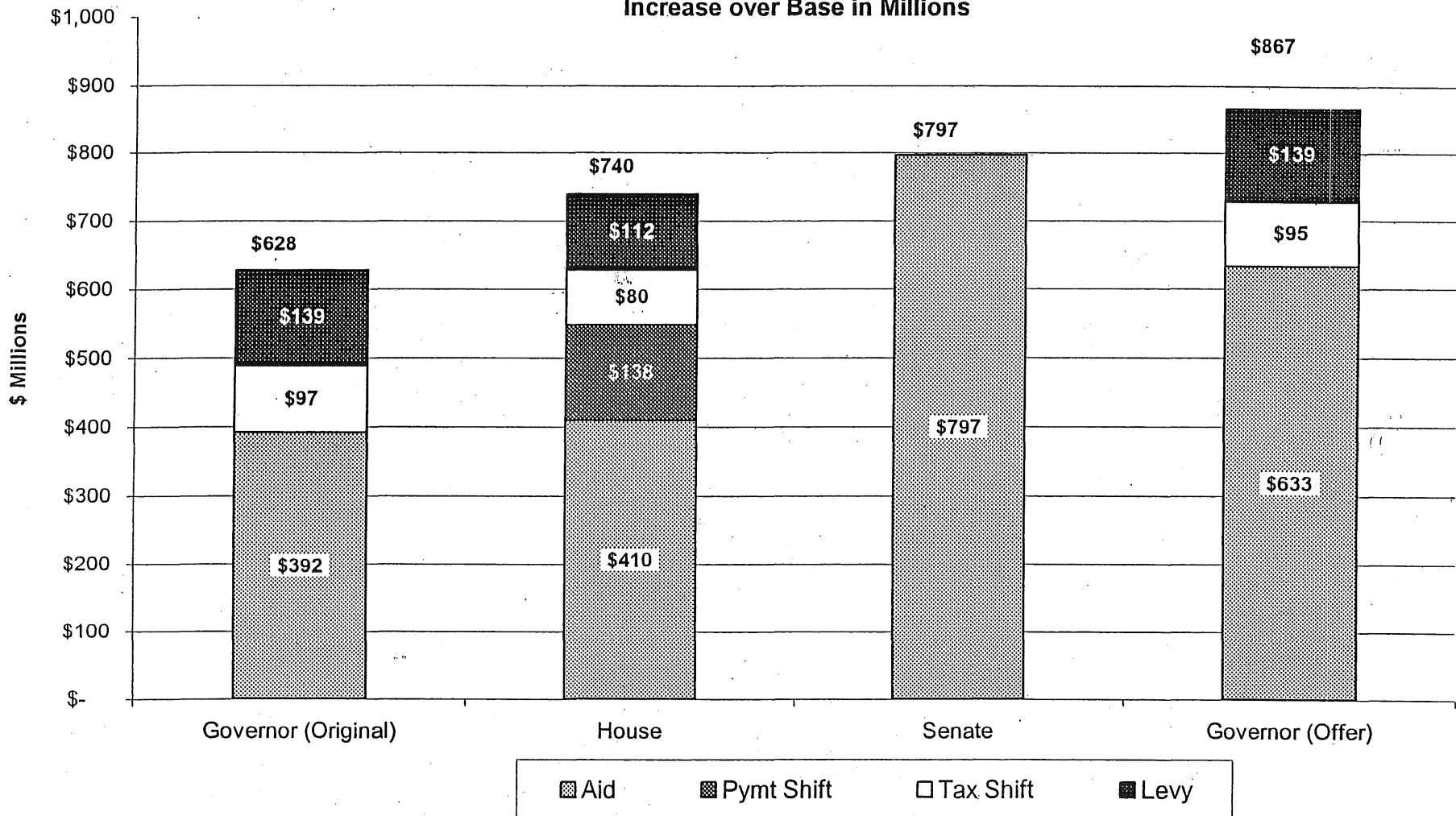
Percent change from FY 2002-03 to FY 2006-07

Percent change from FY 2002-03 to FY 2006-07 adjusted for takeovers

□ Governor ▒ House ■ Senate

#2

Total Proposed Revenue, 2006-07 Biennium K-12 and Early Childhood and Family Education Programs Increase over Base in Millions



Formula Allowances	House	Senate	Governor Offer
FY 05	\$4,601	\$4,601	\$4,601
FY 06	4,740	4,832	4,808
	(+\$139) - 3.0%	(+\$231) - 5%	(+\$207) - 4.5%
FY 07	4,885	5,053 *	5,024
	(+\$145) - 3.1%	(- \$27 roll-in)	(+\$216) - 4.5%
		5,026	
		(+\$194) - 4%	

- Senate Expenditures -

Preliminary Draft

6/14/2005

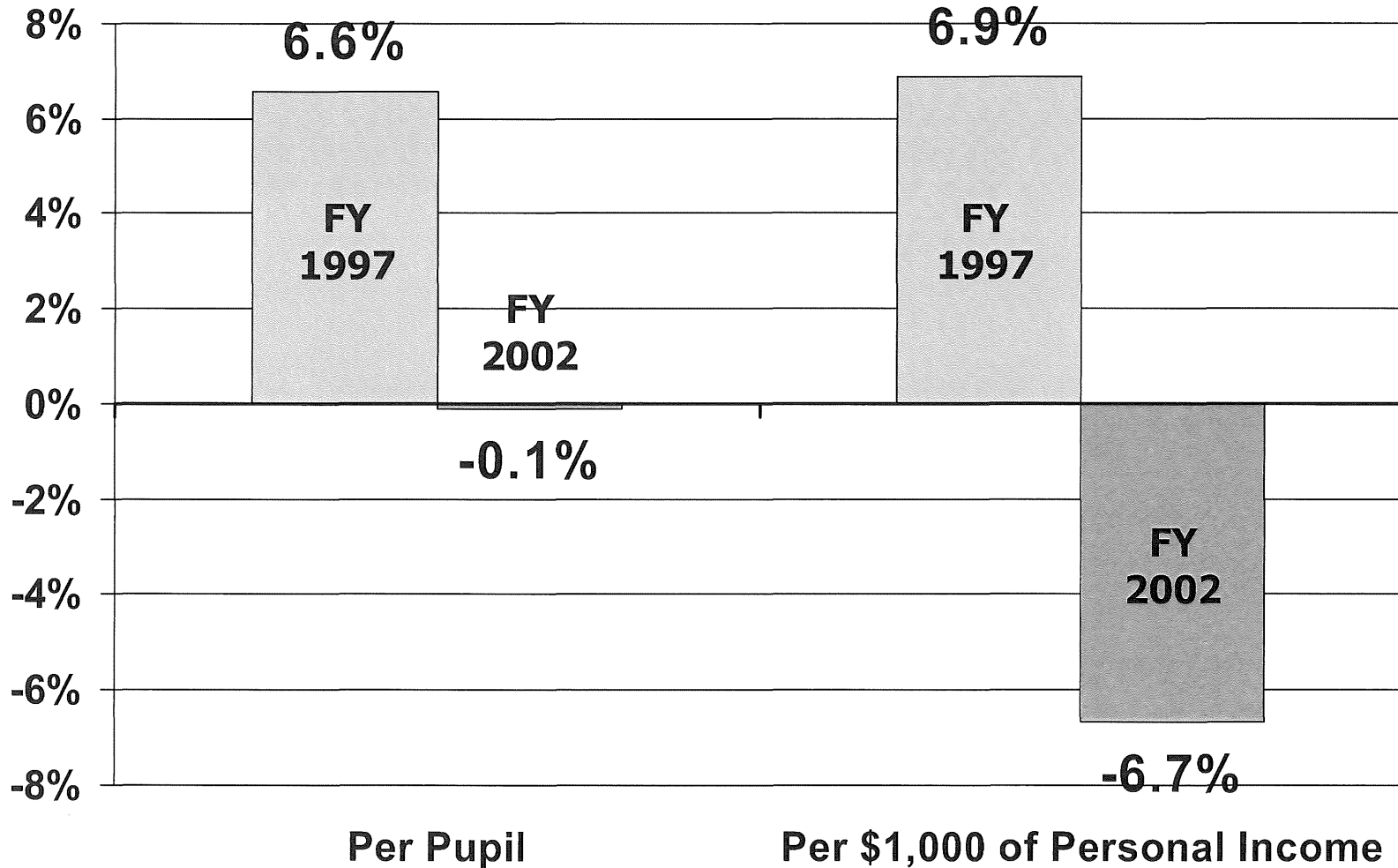
FY 06-07

LGA	(86,000)
AMT Changes	(92,400)
Exemption Amounts	(45,000)
Dependent Exemption from AMTI	(23,100)
AMT Deduction for Charitable Contributions	(6,300)
AMT Interaction --	(18,000) (Need number from DOR)
Married Joint Standard Deduction	(65,200)
Insurance Premiums Reduction	(11,700)
K-12 Credit	(450)
Military	(3,000)
Conformity	(5,180)
RAIN	(10,000)
Commuter Rail	(8,600)
County Chemical Dependency MOE	(3,220)
County Criminal Justice	(30,000)
Clean Water Legacy	(34,500)
Misc.	
Dairy Credit	(2,900)
Organ Donation	(209)
Historic Structures	(3,840)
Transit Pass Refunds	(1,400)
Car Sharing	(90)
Geo Thermal	(2,000)
Biomass	(640)
Movie/TV Inputs	(940)
Public Safety Radio	(3,050)
Commuter Rail Diesel Fuel	(20)
Catholic Charities	(66)
St. Mary's Duluth	(138)
Waste Recovery Facilities	(1,075)
Poultry Litter	(800)
Laurentian Energy	(434)
Thief River	(350)
Crown Hydro	(165)
Chatfield	(160)

Great River School Abatement	(15)
Taxpayer Assistance Grants	(250)
PILT	(295)
Border Cities	(1,500)
Rochester	(2,000)
Duluth	(320)
Misc. Total	(22,657)

Total	(372,907)
--------------	------------------

Elementary & Secondary Current Spending Per Pupil & Per \$1,000 of Personal Income: Minnesota Relative to U.S. Average



Source: 1997 and 2002 Census of Governments

SENATE REV PROPOSAL

Senate Tax Revenue (Regular Session)	\$1,500
<u>Expenditure Changes:</u>	
Enacted Higher Education, Public Safety and State Government Finance Bills	-\$56
<u>Senate Offers: E-12 Education Finance; Agriculture, Env. And Econ Dev.; and Health and Human Services (vs. Senate Bill)</u>	<u>-\$186</u>
<i>Subtotal:</i>	<i>-\$242</i>
<u>Tax Expenditures</u>	<u>-\$58</u>
Net Savings	-\$300
Senate Net Revenue (6-14-05)*	\$1,200

* Net Revenue includes \$173 expenditure for property tax relief.

Governor's Revenue (Original)	\$159
Governor's Revenue (6/14/2005)	
--Cigarette Fee	\$380
--Abusive Tax Shelters	\$40
--Card Club Fee	\$9
--Streamlined Sales Tax (Enacted)	\$40
--Miscellaneous Fees	\$27
<u>--Drop Racino</u>	<u>-\$200</u>
Net Revenue:	\$455

Revenue Forecast FY2006-07

Total current resources for the 2006-07 biennium are forecast to be \$29.711 billion, \$234 million (0.8 percent), more than projected in November. Receipts from the five major taxes are forecast to total \$25.622 billion, \$259 million more than was anticipated in November. A slight decline is projected in other tax and non tax receipts. Current resources in the 2006-07 biennium are now projected to grow by 3 percent over FY2004-05 revenues. Revenue from the five major taxes is forecast to grow by 9.4 percent over levels in the 2004-05 biennium. Other resources fall by \$1.168 billion compared to FY2004-05 levels reflecting the one time transfer of tobacco funds to the general fund done as part of the 2004-05 budget solution.

Revenue Forecast FY2006-07 (\$ in millions)

	<u>FY2004-05</u>	<u>FY2006</u>	<u>FY2007</u>	<u>FY2006-07</u>	
Individual Income	\$11,885	\$6,528	\$6,955	\$13,483	+13.4%
Sales	8,327	4,396	4,452	8,848	+10.7%
Corporate	1,457	736	733	1,469	+0.8%
Motor Vehicle Sales	537	260	271	531	-1.1%
Statewide Levy	1,217	635	657	1,291	+6.1%
Five Major Taxes	23,424	12,555	13,067	25,622	+9.4%
Other Revenue	3,480	1,657	1,677	3,334	
Tobacco	344	172	169	340	
Net Non-dedicated	27,247	14,383	14,913	29,297	+7.5%
Other Resources	1,582	203	211	414	+3.1%
Current Resources	\$28,829	\$14,586	\$15,125	\$29,711	+1.52%

There were modest increases in the forecast for the individual income tax and sales tax, and a slightly larger percentage increase in the corporate income tax forecast. Changes in projected receipts from those three taxes account for all the additional revenue found in this forecast. The sales tax showed the largest dollar value change, up \$115 million; the corporate income tax the largest percentage change, up 6.4 percent.

Changes in Economic Assumptions

The economic outlook has changed only slightly since November. Global Insight now forecasts real (inflation adjusted) GDP in the U.S. to grow at a 3.2 percent annual rate in FY2006 and a 3.1 percent annual rate in FY2007. In November the GII baseline called for

#7

REVENUE INCREASES

(Provisions in original bills as passed the House and Senate)
-- or provisions as agreed to by CC/Working Group

(\$1000s)

	2006-07		2008-09	
	House	Senate	House	Senate
Income Tax & Corporate Tax				
Tax rate increases	-	1,044,500	-	1,042,400
Tax certain deferred wages (Benda)	-	4,100	-	4,600
Withholding for nonres partners etc	14,050	14,050	1,950	1,950
Withholding construction sub-contractors (House position)	-	-	-	-
Fed conform (Amer Job Creation Act)	20,765	20,765	37,085	37,085
FOCs	-	230,600	-	199,500
Disallow ded for fines & fees	-	150	-	150
Subtotal: Income Tax	34,815	1,314,165	39,035	1,285,685
Sales Tax				
SSTP medical equipment*	16,260	16,260	18,530	18,530
SSTP voluntary payments*	40,630	40,630	110,410	110,410
Leased vehicles (Senate position)	38,670	38,670	6,224	6,224
Rental vehicles sales tax at 12.7%	18,590	18,590	29,700	29,700
Cig sales tax at wholesale	10,350	12,190	5,400	5,400
State vendors must collect tax	3,410	3,410	8,710	8,710
Gas pipelines	4,800	4,800	6,400	6,400
Reverse Sprint case	-	3,060	-	3,310
Tax souvenir clothing	-	1,700	-	1,700
Subtotal: Sales & Use Taxes	132,710	139,310	185,374	190,384
Other Taxes & Fees				
Gross receipts tax on alcohol	83,950	83,950	125,100	125,100
Insurance -- Stop loss policies	5,100	5,100	9,900	9,900
Insurance -- CUNA	-	330	-	500
State wide property tax	-	196,700	-	377,925
Card club franchise fee (@15%)	8,440	-	8,620	-
Tax shelter compliance	40,240	62,560	9,440	6,990
Subtotal: Other Taxes & Fees	137,730	348,640	153,060	520,415
Total -- All Taxes & Fees	305,255	1,802,115	377,469	1,996,484
<i>Agreed-upon items</i>	<i>225,460</i>	<i>225,460</i>	<i>316,924</i>	<i>316,924</i>
<i>Other House bill revenue raisers</i>	<i>79,795</i>	<i>1,576,655</i>	<i>60,545</i>	<i>1,679,560</i>

*Included in regular session bill.

Shaded lines show provisions on which agreement has been reached.

Numbers exclude property tax interactions.

REVENUE INCREASES

Senate Offer

	(\$1000s)	
	<u>2006-07</u>	<u>2008-09</u>
	<u>Senate</u>	<u>Senate</u>
Senate Offer		
Tax rate increases (top at 9.9%)	786,300	784,600
Change from 10.65% rate*	(258,300)	(258,200)
FOCs	200,000	173,000
Change from original bill	(30,600)	(26,500)
Cigarette fee at 55 cents/pack	301,450	290,875
<u>Total change in revenue raisers</u>	<u>12,550</u>	<u>6,175</u>
<u>Original revenue raisers</u>	<u>1,802,115</u>	<u>1,996,484</u>
<u>New total revenue raisers</u>	<u>1,814,665</u>	<u>2,002,659</u>

The FY 2008-09 change in FOC revenue is assumed to be the same proportional cut as the change shown for 2006-07.

FY 2006-07 and -\$400 in FY 2008-09)

HOUSE REVENUE INCREASES

	(\$1000s)	
	<u>2006-07</u>	<u>2008-09</u>
	<u>House</u>	<u>House</u>
All agreed revenue raisers	225,460	316,924
Other House bill revenue raisers	79,795	60,545
FY 2005 revenues carried forward	169,700	0
Racino	<u>210,000</u>	<u>250,000</u>
Total Revenue Raisers	<u>684,955</u>	<u>627,469</u>

Does not include reductions in revenue.

REVENUE INCREASES

(Provisions in original bills as passed the House and Senate)
-- or provisions as agreed to by CC/Working Group

(\$1000s)

	<u>2006-07</u>		<u>2008-09</u>	
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REVENUE INCREASES

Senate Offer

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Does not include reductions in revenue.

STATE OF MINNESOTA
COUNTY OF RAMSEY

DISTRICT COURT
SECOND JUDICIAL DISTRICT

Case Type: Civil

In Re Temporary Funding of Core
Functions of the Executive Branch of
the State of Minnesota

Court File No. C9-01-5725

**FINDINGS OF FACT, CONCLUSIONS OF
LAW, AND ORDER GRANTING
MOTION FOR TEMPORARY FUNDING**

On June 21, 2001, this Court issued an Order to Show Cause setting a hearing date of June 29, 2001 on the motion of Petitioner Mike Hatch, Attorney General of the State of Minnesota, for an Order of this Court directing that core functions of the State of Minnesota continue to operate and be funded on a temporary basis after June 30, 2001. The Order to Show Cause was served on approximately 500 state, county, municipal and school district officials. At the hearing on June 29, 2001 appearances were made by Attorney General Mike Hatch and Chief Deputy Attorney General Alan I. Gilbert on behalf of Petitioner. Other appearances at the hearing are as noted in the record. Having considered the pleadings filed in this matter and the oral presentations of counsel, this Court makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Petitioner Mike Hatch is the Attorney General of the State of Minnesota and in that capacity he represents the public in all legal matters involving the State of Minnesota. He also represents the people of the State in a *parens patriae* capacity.
2. The Minnesota Legislature ended its regular session this year on May 21, 2001 without approving appropriations for nearly all of the executive branch officers and agencies for

the fiscal year beginning on July 1, 2001. On June 11, 2001 Governor Jesse Ventura convened the legislature in special session. The special session has not resulted in any appropriations for the executive branch officers and agencies.

3. The Minnesota Constitution entrusts certain core functions to the executive branch of government and to each of the six executive branch Constitutional Officers specified in Article V (the Governor, Lieutenant Governor, Attorney General, Secretary of State, State Auditor, and State Treasurer). Those core functions of executive branch officials and agencies include ensuring compliance with state and federal constitutional rights of citizens and federal mandates.

4. The following Public Officials appointed by the Governor serve in a variety of capacities in the executive branch of government on behalf of the State of Minnesota, and perform a variety of core functions on behalf of the State, and in some cases, the federal government:

- 1) David Fisher, Department of Administration,
- 2) Gene Hugoson, Department of Agriculture,
- 3) Christine Jax, Department of Children, Families and Learning,
- 4) James Bernstein, Department of Commerce,
- 5) Cheryl Ramstad Hvass, Department of Corrections,
- 6) Earl Wilson, Department of Economic Security,
- 7) Julien Carter, Department of Employee Relations,
- 8) Pamela Whellock, Department of Finance,
- 9) Jan Malcolm, Department of Health
- 10) Janeen Rosas, Department of Human Rights,

- 11) Michael O'Keefe, Department of Human Services,
- 12) John Swift, Iron Range Resources and Rehabilitation Board,
- 13) Gretchen Maglich, Department of Labor and Industry,
- 14) Major General Eugene Andreotti, Department of Military Affairs,
- 15) Allen Garber, Department of Natural Resources,
- 16) Charles Weaver, Department of Public Safety,
- 17) Matthew Smith, Department of Revenue,
- 18) Rebecca Yannish, Department of Trade and Economic Development,
- 19) Elwyn Tinklenberg, Department of Transportation,
- 20) Jeffrey Olson, Department of Veterans Affairs,
- 21) Karen Studders, Minnesota Pollution Control Agency,
- 22) Dean Barkley, Department of Planning,
- 23) Morris Anderson, Chancellor, Minnesota State Colleges and Universities,
- 24) Howard Bicker, Executive Director, State Board of Investment,
- 25) Katherine G. Hadley, Housing Finance Agency,
- 26) Ted Mondale, Chair, Metropolitan Council,
- 27) Richard Scherman, State Board of Public Defense, and
- 28) David S. Paull, Board on Judicial Standards.

5. In addition to the Public Officials referenced in the preceding paragraph, there are a variety of occupational and licensing boards, regulatory boards, mediation bureaus, minority affairs counsels, and other commissions which act on behalf of state government and perform core functions.

6. Local governmental units such as counties, municipalities and school districts are also charged under Minnesota and federal law with the responsibility to perform certain core functions on behalf of the state and federal governments. These local government units receive state and federal funds to perform these core functions. Amongst the most important of these responsibilities is that of school districts to ensure the constitutional obligation of the state to provide an adequate education as part of a "general and uniform system of public schools." Minn. Const. Art. XIII, Section 1. Minnesota school districts ensure this constitutional right with the assistance of substantial State aid. School districts will be unable to carry out this core function without the State continuing to make timely payments to the school districts.

7. The State of Minnesota has entered into numerous agreements with the United States government which require the State to make payments to individuals or local governmental units, or to undertake certain administrative duties on behalf of or in cooperation with the federal government. Without funding as of July 1, 2001, the State will be unable to carry out these core functions. Examples of such agreements and obligations include the administration and payment of Aid to Families with Dependent Children, medical assistance, general assistance, and a variety of other programs designed to assure the health, safety and welfare of Minnesota citizens.

8. Examples of the federal programs referenced in paragraph 7 include the following welfare programs: the Food Stamp Program, 7 U.S.C. § 2011 *et seq.*; the Temporary Assistance to Needy Families (TANF) Program, 42 U.S.C. § 601 *et seq.*; and the Medicaid Program, 42 U.S.C. § 1396 *et seq.* Before the State was allowed to participate in these programs, it was required to assure the federal government, through certification or a state plan submission, that Minnesota residents would be promptly provided the food, subsistence and medical benefits for

which they were eligible. *See* 7 U.S.C. § 2020(a); § 2020(d), § 2020(e)(2), (3) and (9); 42 U.S.C. § 602(a)(1) and (4); 42 U.S.C. § 1396a(a)(10) and (9). The State must also share in the cost of operating each program. *See* 7 U.S.C. § 2025, 42 U.S.C. § 609(7), 42 U.S.C. § 1396a(a)(2). The State is responsible for 50% of the benefit costs of the Medicaid program. It must also maintain prior levels of state spending in the TANF program. Should the State fail to fulfill its numerous responsibilities under any of the three federal programs, it is subject to severe federal fiscal sanctions and, indeed, could be banned from continued participation in the programs. *See* 7 U.S.C. § 2020(g), 42 U.S.C. § 609, 42 U.S.C. § 1396c.

9. Due to the lack of legislative appropriations, the six Constitutional Officers of the State of Minnesota, the executive branch agencies, and the local units of Minnesota government, have insufficient funds to carry out all of their core functions as of July 1, 2001. Any failure to properly fund core functions of the executive branch would have severe consequences for the citizens of Minnesota.

10. With regard to a previous shutdown of the federal government, the Office of Management and Budget ("OMB") and the United States Attorney General used the following criteria to define core or essential government services:

- Those services providing for national security;
- Those services providing for benefit payments in the performance of contract obligations, and
- Conducting essential activities to the extent that they protect life and property.

11. Pursuant to the criteria referenced in paragraph 10 above, the OMB determined that the following activities, among others, were core or essential services necessary to protect life and property:

- Medical care of inpatients and emergency outpatient care;
- Activities essential to ensure continued public health and safety, including safe use of food, drugs, and hazardous materials;

- Continuance of transportation safety functions and the protection of transport property;
- Protection of lands, buildings, waterways, equipment and other property owned by the government;
- Care of prisoners and other persons in the custody of the government;
- Law enforcement and criminal investigations;
- Emergency and disaster assistance;
- Activities that ensure the production of power and the maintenance of the power distribution system;
- Activities essential to the preservation of the essential elements of the financial system of the government, including the borrowing and tax collection activities of the government; and
- Activities necessary to maintain protection of research property.

12. The State of Minnesota is not facing a budget crisis. The State has ample reserves at this time, and the executive branch could continue to operate core functions if it had access to those funds.

CONCLUSIONS OF LAW

1. The Attorney General is authorized to commence an action in the courts of this State when he determines that the proceeding is in the interest of the State.

2. This Court has jurisdiction over this matter in accordance with Minn. Stat. ch. 484 (2000) and venue is proper in this Court pursuant to Minn. Stat. § 542.01 (2000).

3. -Article XI, Section 1 of the Minnesota Constitution provides that "no money shall be paid out of the treasury of this state except in pursuance of an appropriation by law." Under Article IV of the Minnesota Constitution, the Minnesota Legislature is given the authority to approve appropriations for Minnesota government to operate.

4. The Minnesota Constitution provides that each of the six executive branch Constitutional Officers specified in Article V, the Governor, Lieutenant Governor, Attorney General, Secretary of State, State Auditor, and State Treasurer, have and perform certain core functions which are an inherent part of their Offices. Performance of these core functions may not be abridged. *State ex. rel. Mattson vs. Kiedrowski*, 391 N.W.2d 777 (Minn. 1986). Failure to

fund these independent core functions nullifies these constitutional offices, which in turn contravenes the Minnesota Constitution.

5. The core functions of the executive branch arise from the State and Federal Constitutions, as well as mandates of the federal government pursuant to the Supremacy Clause of the United States Constitution.

6. The Minnesota Constitution provides that "government is instituted for the security, benefit and protection of the people" Article I, Section 1. Minnesota citizens are guaranteed under both the United States and Minnesota Constitutions the right to due process before deprivation of life, liberty or property. U.S. Const. Amendments III and IV; Minn. Const., Article I, Section 7. Minnesota citizens are guaranteed a wide range of rights under the Bill of Rights in both constitutions. U.S. Const. Amendments I-X; Minnesota Const. Article I. These rights and privileges will be infringed if executive branch agencies do not have sufficient funding to discharge their core functions as of July 1, 2001.

7. The Minnesota Constitution requires that the State provide an adequate education through a "general and uniform system of public schools." Article XIII, Section 1. Minnesota school districts ensure this constitutional right with the assistance of substantial State aid.

8. The State of Minnesota has entered into agreements with the United States government to participate in a variety of programs, including, for example, Aid to Families with Dependent Children and other similar welfare or social service programs, and the Section 8 housing program. Under these agreements continued participation in those programs is required once a State has agreed to participate. The Supremacy Clause of the United States Constitution, Article VI, mandates that any funds paid by the State as a result of participation in federal programs must continue.

9. The core functions of the executive branch, whether conducted by a state agency or local government entities, must be funded adequately for the executive branch to meet its obligations under the United States and Minnesota Constitutions and federal law.

10. Core functions include matters relating to the life, health and safety of Minnesota citizens and the maintenance and preservation of public property. By way of example, core functions include, but are not limited to, the provision of healthcare to patients in state-run facilities and programs and the funding of patient care and services in local government or private facilities or programs, such as hospitals, nursing homes, mental health residential facilities, group homes for mentally ill people, home healthcare and other healthcare services; the State's education system; the application and maintenance of federal and/or State contracted or mandated programs and projects, such as welfare, medical assistance, emergency and housing programs and construction projects; the preservation of safety in state-run facilities; enforcement of laws involving food, drugs, hazardous materials, safety in modes of transportation and state highways (such as the inspection of products and services provided pursuant to construction contracts), the proper provision of healthcare and the integrity of our judicial system; law enforcement, criminal investigations, and prosecutorial and public defender activities; emergency and disaster assistance; activities that ensure the continued production of power, maintenance of the power distribution system, and telecommunications systems; protecting the state and federal constitutional rights of Minnesota citizens; care of prisoners and others in the custody of the government; protection and maintenance of lands, buildings, waterways, transport property, equipment and other property owned or leased by the state government; activities essential to the preservation of the elements of the financial system of the State, including revenue collection, borrowing, payment of debts, compliance with bond and similar

requirements, maintenance of pensions, retirement programs and investment of state and retirement assets and prompt payment of amounts owed to employees, vendors, and contractors.

ORDER

1. Minnesota State agencies and officials, county and municipal entities, and school districts shall perform the core functions of government as required by the Minnesota Constitution, the U.S. Constitution and the federal government pursuant to the Supremacy Clause of the U.S. Constitution, and the State of Minnesota shall pay for such services.

2. The Minnesota Commissioner of Finance, Pamela Wheelock, and the Minnesota Treasurer, Carol Johnson, shall timely issue checks and process such funds as necessary to pay for such obligations so that the core functions of government can be discharged.

3. Minnesota state agencies and officials, county and municipal entities, and school districts shall, consistent with the terms of this Order, determine what core functions are required to be performed by each of them. Each government entity shall verify the performance of such core functions to the Commissioner of Finance and the State Treasurer, who shall pay for such services.

4. Esther Tomljanovich is hereby appointed as a Special Master to mediate and, if necessary, hear and make recommendations to the Court with respect to any issues which may arise regarding compliance within the terms of this Order. The fees and expenses of the Special Master shall be paid by the State.

5. This Order shall be effective until the earliest of the following:

a. July 23, 2001;

b. The enactment of a budget by the State of Minnesota to fund the core functions of government after June 30, 2001; or

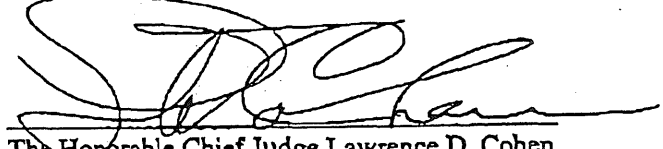
c. Further Order of this Court.

6. Petitioner shall serve by U.S. Mail a copy of this Order to the persons and entities listed in Exhibit A attached to the Order. The Petitioner shall also serve, by personal service, a copy of this Order upon the following individuals:

- a. The Honorable Jesse Ventura, Governor of the State of Minnesota,
- b. The Honorable Don Samuelson, President of the Minnesota State Senate,
- c. The Honorable Steve Sviggum, Speaker of the Minnesota House of Representatives,
- d. The Honorable Pamela Wheelock, Commissioner of Finance,
- e. The Honorable Carol Johnson, Minnesota State Treasurer, and
- f. The Honorable Robert Small, Acting U.S. Attorney for the District of Minnesota.

7. The Court hereby incorporates by reference, and adopts as its own, the Memorandum filed by the Attorney General with the Court in this matter.

BY THE COURT:



The Honorable Chief Judge Lawrence D. Cohen

Dated this 29th day of June, 2001.