

FILED  
Court Administrator

STATE OF MINNESOTA

JUN 13 2011

DISTRICT COURT

COUNTY OF RAMSEY

By JH Deputy

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. 62CV-11-5203

**PETITION**

Petitioner Attorney General Lori Swanson, petitions the Court as follows:

**PARTIES**

1. I am the duly elected Attorney General of the State of Minnesota. In this capacity, I have the authority under the Minnesota Constitution, Minnesota Statutes and Minnesota common law to represent the State and its interests in all matters before the Court. I also represent the people of the State in a *parens patriae* capacity.

2. The Governor is entrusted under Article V, Section 3 of the Minnesota Constitution to ensure that the laws of the State are faithfully executed. He has extensive authority under the common law, Minnesota Statutes Chapter 4 and elsewhere.

3. In addition, the executive branch consists of four other duly elected constitutional officers as specified in Article V of the Constitution of the State of Minnesota. These officers include the Secretary of State, who has authority to regulate the conduct of elections and to accept and keep records relating to the filing of documents under the Uniform Commercial Code and other statutes; the State Auditor, who is charged with the duties of supervising and managing the fiscal concerns of the State and has audit authority over local political subdivisions of the State and other entities and the Lieutenant Governor. In addition, as Attorney General I represent the legal interests of the State in courts and elsewhere.

4. County governments are charged under Minnesota and federal law with the responsibility to perform certain core functions on behalf of the state and federal governments. County governments receive funds from the state and federal governments to perform these core functions.

5. School districts of the State of Minnesota are charged under state and federal law to perform certain core functions on behalf of the state and federal governments. The school districts receive funds from the state and federal governments to perform these core functions.

6. Municipal subdivisions of the State of Minnesota are charged under state and federal law to perform certain core functions on behalf of the state and federal governments. The municipal subdivisions receive funds from the state and federal governments to perform these core functions.

7. Numerous public officials serve in a variety of capacities 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. Most of the agencies headed by these officials have not been funded for the 2012-13 biennium, which commences on July 1, 2011.

8. In addition to the public officials discussed above, there are a variety of boards, commissions and the like which act on behalf of state government and may perform core functions.

9. The United States Attorney is charged to represent the federal government and its interests as it relates to certain services being performed by the state and local governments on its behalf.

10. For purposes of this Petition, the parties described in paragraphs 2-9 above are referred to as "Government Entities."

11. The State and local agencies perform core functions of government, which include matters relating to the life, health and safety of Minnesota citizens and the maintenance and preservation of public property. By way of example, in 2001 and/or 2005, core functions were determined by the Court to include, and not be limited to, the care of prisoners and the security of the State's prisons; 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 and security 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), and the proper provision of healthcare; the integrity and continuation of law enforcement 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 patients 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 prompt payment of amounts owed to employees, vendors, and contractors.

12. Jurisdiction in this action is based upon Minnesota Statutes Section 484.01 (2010). Venue is appropriate in this district under Minnesota Statutes Section 542.01 (2010).

## FACTUAL AND PROCEDURAL BACKGROUND

13. 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.” The State of Minnesota has not enacted a state budget for the fiscal year beginning July 1, 2011.

14. The Government Entities are required to perform certain services which have been identified as “core” functions, which cannot be abridged. Some of these core functions are identified under the Minnesota Constitution. Other core functions are identified in the United States Constitution. Yet other core functions are mandated by the federal government pursuant to the Supremacy Clause of the United States Constitution.

15. STATE CONSTITUTION: Core Functions of Executive Branch: For instance, the Minnesota Constitution imposes a variety of core functions upon the five constitutional officers which may not be abridged. *See State ex rel. Mattson v. Kiedrowski*, 391 N.W.2d 777 (Minn. 1986) (recognizing legislature cannot infringe upon the core functions of a co-equal branch of government). The first mandate set forth in the Minnesota Constitution is that, “Government is instituted for the security, benefit and protection of the people, in whom all political power is inherent. . . .” Minn. Const. art. I, § 1. The Governor has the responsibility to “faithfully execute state laws”, *id.*, art. V, § 3, and thereby protect life, liberty, and property by, for example, the collection of revenue, ensuring maintenance and security of government property such as parks, buildings and roads, and protecting the citizens’ constitutional rights. The State Auditor has independent responsibility to protect government property by auditing the books and records of the government. The Secretary of State has responsibility to protect private property by administration of the Uniform Commercial Code and to protect liberty through the administration of the election laws. As Attorney General, I have responsibility to protect



government property and preserve liberty and life through legal representation of the government in the public interest.

16. U.S. CONSTITUTION: Core Functions of Executive Branch: In addition, the Fourteenth Amendment of the United States Constitution mandates that “No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.” Pursuant to this provision the Government Entities are required to perform certain core functions of government to protect life, liberty and property.

17. In 2001 and 2005, the Attorney General petitioned this Court to act to preserve the operation of the core functions of the executive branch of government after a budget was not passed funding state government. In both instances, this Court issued an Order directing that state and local agencies continue to perform the core functions required by the Minnesota and United States Constitutions and by federal law, and that the State continue to pay for such functions performed after the start of the new fiscal year. *See In Re Temporary Funding of Core Functions of the Executive Branch of the State of Minnesota*, Findings of Fact, Conclusions of Law, and Order Granting Motion for Temporary Funding, C9-01-5725 (Ramsey Co. D. Ct., filed June 29, 2001) (attached hereto as Exhibits 1 and 4); *In Re Temporary Funding of Core Functions of the Executive Branch of the State of Minnesota*, Findings of Fact, Conclusions of Law, and Order Granting Motion for Temporary Funding, C0-05-5928 (Ramsey Co. D. Ct., filed June 23, 2005), and subsequent Orders (filed June 30 2005 and July 7, 2005).<sup>1</sup> In both Orders,

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<sup>1</sup> In 2001, the Court also directed that funding be maintained for the core functions of the judicial branch. *See In re Temporary Funding of Core Functions of the Judicial Branch of the State of Minnesota*, No. C6-01-5911, Findings of Fact, Conclusions of Law, and Order Granting Motion

the Court directed state and local agencies to determine what core functions were required to be performed by each. The “critical” operations which were to remain open in the event of a state government shutdown included, but were not limited to, those contained in Exhibit 3 (2001) and Exhibit 4, attachment B (2005), to this Petition.

18. The Office of Management and Budget (“OMB”) and the United States Attorney General have used, with regard to a federal government shutdown, the following criteria to define core or essential government services:

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

OMB Memorandum, *Agency Operations in Absence of Appropriations* (Nov. 17, 1981), available at [http://www.opm.gov/furlough/OMBGuidance/Attachment\\_A-4.pdf](http://www.opm.gov/furlough/OMBGuidance/Attachment_A-4.pdf) (hereinafter “OMB Memorandum”).

19. Pursuant to the above criteria, the OMB determined that the following activities, among others, are 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;

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for Temporary Funding (Ramsey Co. D. Ct., June 29, 2001), attached hereto as Exhibit 2. In 2005 the Legislature enacted funding for the judicial branch as part of a larger “Public Safety” appropriation bill. See Act of June 2, 2005, ch. 136.

- 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.

OMB Memorandum.

20. STATE CONSTITUTION: Education Funding: In addition, the Minnesota Constitution requires that the State provide a “general and uniform system of public schools.” Minn. Const. art. XIII, § 1. This provision requires that the State mandate and finance an “adequate” level of education that is uniformly available to all students. Some of the Government Entities are responsible for providing such a core function of government.

21. FEDERAL MANDATES AND AGREEMENTS: Supremacy Clause of U.S. Constitution: In addition, the Supremacy Clause of the United States Constitution requires that the State of Minnesota perform certain core functions of the government pursuant to inter-governmental compact, agreement or congressional mandate. In many instances the State of Minnesota has agreed to undertake certain administrative duties on behalf of, or in concert with, the federal government. Such core functions include, but are not limited to, administration and payment of medical assistance, general assistance, and a variety of federal and government programs designed to assure the safety and welfare of its citizens. Pursuant to the Supremacy Clause, these core functions of government must be administered by the Government Entities and paid for by the State of Minnesota.

22. The Commissioner of the Department of Management and Budget administers the payment of obligations of the State of Minnesota.

23. The State treasury contains ample funds to continue the operation of the core functions of government after June 30, 2011.

Wherefore, Petitioner seeks the following relief:

1) A conclusion that, pursuant to the separation of powers doctrine of the Minnesota Constitution, the executive branch of state government, including its constitutional officers, must undertake such core functions 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 that the State of Minnesota shall pay for such services.

2) An Order that the Commissioner of the Department of Management and Budget shall issue checks and process such funds as necessary to pay for such obligations of the State of Minnesota.

3) An Order that each of the Government Entities shall, consistent with the terms of the Order, determine what core functions are required to be performed by it. Each Government Entity shall verify the performance of such core services to the Commissioner of the Department of Management and Budget, who shall pay for such services.

4) An Order that a Special Master be appointed by the Court to hear and make recommendations to the Court with respect to any issues which may arise regarding the terms of this Order, and that the State of Minnesota, by its Commissioner of the Department of Management and Budget, shall pay the reasonable fees of the Special Master. The Attorney General's Office has inquired as to the availability of the Honorable James Gilbert, Retired Associate Justice of the Minnesota Supreme Court, to serve in such a role, and he has indicated such an availability. Petitioner proposes that former Justice Gilbert be appointed as the Special Master.

5) Such other relief as the Court deems appropriate.

Dated: June 13, 2011

Respectfully submitted,

LORI SWANSON  
Attorney General  
State of Minnesota

A handwritten signature in black ink that reads "Lori Swanson". The signature is written in a cursive style with a large, stylized "L" and "S".

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AG: #2814085-v1

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

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 Wheelock, 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 Tomljenovich 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

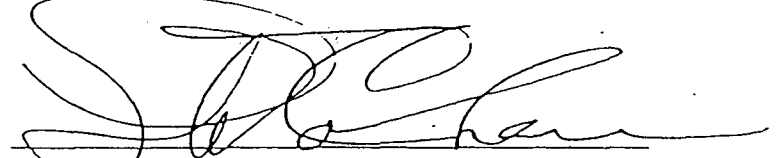
c. Further Order of this Court.

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:

A handwritten signature in black ink, appearing to read "L. D. Cohen", written over a horizontal line.

The Honorable Chief Judge Lawrence D. Cohen

Dated this 29<sup>th</sup> day of  
June, 2001.

STATE OF MINNESOTA

COUNTY OF RAMSEY

DISTRICT COURT

SECOND JUDICIAL DISTRICT

Case Type: Civil

Court File No. C6-01-5911

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

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

On June 28, 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 judicial branch 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 various public officials as indicated by the affidavits of service on file.

A hearing was held on June 29, 2001 in front of the undersigned Judge of District Court, sitting by special appointment of the Honorable Kathleen A. Blatz, Chief Justice of the Minnesota Supreme Court.

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 were as indicated on 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 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.

3. The judicial branch of the State of Minnesota was established by the State Constitution and includes the Minnesota Supreme Court, the Minnesota Court of Appeals and Minnesota district courts.

4. Article VI of the Minnesota Constitution provides that the judicial branch of government have and perform certain core functions. The core functions involve the adjudication of cases. They include the obligations to promptly hear and decide criminal cases so that criminal defendants’ rights are secured, and public safety concerns are met. The core functions of the judicial branch also include all activities necessary for civil courts to function so that citizens may have a prompt remedy for wrongs and injuries, as guaranteed by Article I, section 8 of the Minnesota Constitution.

5. The affidavit of State Court Administrator Sue Dosal, submitted to this Court in support of Petitioner’s motion, adequately documents that the entire scope of services currently

performed by, and the responsibilities currently assigned to, the judicial branch are necessary to preserve the adjudicatory role and to perform the proper administration of justice as contemplated in the state constitution.

6. Any decrease in the ability of the judicial branch to handle cases and associated administrative matters would cause the judicial branch to be unable to carry out its core functions.

7. 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. This includes appropriations for the judicial branch.

8. The Minnesota Legislature ended its regular session on May 21, 2001 without approving appropriations for the judicial branch 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 as yet resulted in any appropriations for the judicial branch.

9. Due to the lack of legislative appropriations, the judicial branch has insufficient funds to carry out its core functions as of July 1, 2001.

10. The State of Minnesota is not facing a budget crisis. The State has ample reserves at this time, and the judicial 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 III of the Minnesota Constitution provides that the powers of government shall be divided into three distinct departments: legislative, executive and judicial. Minn. Const. Art. 3, § 1. No branch is imbued with the power to nullify the core functions of the other. *See State ex. rel. Mattson vs. Kiedrowski*, 391 N.W.2d 777 (Minn. 1986).

4. There are no existing legislative-administrative procedures for funding the judicial branch in the event of the Legislature's failure to make appropriations prior to the beginning of a fiscal year.

5. The core functions of the judicial branch must be funded adequately for it to meet its obligations under the United States and Minnesota Constitutions.

6. Failure to fund the core functions of the judicial branch nullifies the judicial branch, which in turn contravenes the Minnesota Constitution.

7. The judicial branch has inherent judicial power to insure its self-preservation. *Clerk of Courts Compensation for Lyon County v. Lyon County Commissioners*, 241 N.W.2d 781 (Minn. 1976). Procedures have been established for the assertion of inherent judicial power. *Id.*

8. The relief requested in the petition for an order requiring the Commissioner of Finance and the State Treasurer to administer payments to the judicial branch for the funding of its core functions until appropriate Legislative appropriations have been finalized is necessary to the continued performance of the core functions of the judicial branch.

9. This Court has the inherent judicial power to order payment of such funds as are necessary to enable the judicial branch to carry out its core functions. *See Id.*

## ORDER

1. The Minnesota judicial branch shall continue to perform the core functions of that branch as required by the Minnesota Constitution and the U.S. Constitution, and the State of Minnesota shall continue to pay for such services at the rate provided for in the fiscal year ending June 30, 2001.

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 the judicial branch can be discharged.

3. Minnesota State Court Administrator Sue Dosal shall, consistent with the terms of this Order, determine what core functions are required to be performed by the judicial branch. She shall verify the performance of such core functions to the Commissioner of Finance and the State Treasurer, who shall pay for such services.

4. The Honorable 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 with 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:

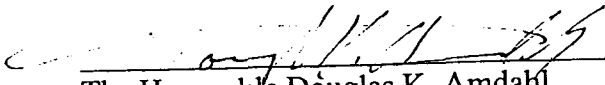
- a. July 23, 2001;
- b. The enactment of a budget by the State of Minnesota to fund the core functions of the judicial branch after June 30, 2001; or
- c. Further Order of this Court.

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,
- f. The Honorable Mary Kiffmeyer, Minnesota Secretary of State,
- g. The Honorable Judith Dutcher, Minnesota State Auditor,
- h. The Honorable Robert Small, Acting U.S. Attorney for the District of Minnesota; and
- i. Sue Dosal, State Court Administrator.

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 Douglas K. Amdahl  
District Court Judge

Dated this 29th day of June, 2001.

AGENCY	If do remain open, should make sure that necessary services and capacity are available for business continuation with other agencies with whom may normally coordinate.		
	CRITICAL OPERATIONS OR OPERATIONS IN DIRECT SUPPORT OF CRITICAL OPERATIONS That May Remain <b>Open</b> (May be contacted to complete affidavit for legal proceeding.)  <b>All Others Closed</b> Unless Listed In "Agency Discretion" Or "Attorney General" Columns	AGENCY DISCRETION TO CONTINUE OPERATIONS	CAN ONLY REMAIN OPEN IF ATTORNEY GENERAL LAWSUIT SUCCESSFUL OR GOVERNOR USES EXECUTIVE AUTHORITY FOR "CRITICAL OPERATIONS" (May be contacted to complete affidavit for legal proceedings.)  • Operations identified as "critical" or "agency discretion" can plan on staying open. Others relying on Federal arguments or Contract Default should make plans to close and receive notice of ability to remain open June 27-July 1 depending on result of Attorney General Success in Lawsuit.  <u>Additional Federal or Contract Arguments That Could Be Raised</u>
ADMINISTRATIVE HEARINGS  Total Employees: 93	Closed		
AGRICULTURE DEPT  Total Employees: 521	<div> <div>             The following portions of your critical operations plan have been approved:             <ul style="list-style-type: none"> <li><input type="checkbox"/> Commercial Feed Regulation</li> <li><input type="checkbox"/> Agricultural Chemical Emergency Response</li> <li><input type="checkbox"/> Food Inspection</li> <li><input type="checkbox"/> Dairy Inspection</li> <li><input type="checkbox"/> Food Safety Emergency &amp; Food Reinspection</li> <li><input type="checkbox"/> State Meat Inspection</li> <li><input type="checkbox"/> Laboratory Services               <ul style="list-style-type: none"> <li><input type="checkbox"/> Agronomy Analysis/Ag Chemical Emergency Response</li> <li><input type="checkbox"/> Food Safety Emergencies/Dairy and Food Inspection Services</li> <li><input type="checkbox"/> Monitoring and Regulatory Analysis to State Meat Inspection Program.</li> <li><input type="checkbox"/> Regulatory Analysis for Commercial Feed</li> </ul> </li> <li><input type="checkbox"/> Nuclear Response</li> <li><input type="checkbox"/> Biological Control Program</li> </ul> </div> <div>             Only staff and operating expenses that are minimally necessary to continue, secure, or support these operations are authorized in the event of a government shut down.           </div> </div> <div>             Since don't rely on general funds and so long as no or de minimis use of resources of general fund agencies supporting critical operations, the following operations may continue at the discretion of the agency:             <ul style="list-style-type: none"> <li>• Farmers Market Nutrition Program</li> <li>• Grain Inspection</li> <li>• Seed Potato Inspection</li> <li>• Grain Licensing and Auditing Program</li> <li>• Livestock Weighing</li> <li>• Fruit and Vegetable Inspection</li> </ul> </div>		

AGENCY	If do remain open, should make sure that necessary services and capacity are available for business continuation with other agencies with whom may normally coordinate		
	CRITICAL OPERATIONS OR OPERATIONS IN DIRECT SUPPORT OF CRITICAL OPERATIONS That May Remain <b>Open</b> (May be contacted to complete affidavit for legal proceeding.)  <b>All Others Closed</b> Unless Listed In "Agency Discretion" Or "Attorney General" Columns	AGENCY DISCRETION TO CONTINUE OPERATIONS	CAN ONLY REMAIN OPEN IF ATTORNEY GENERAL LAWSUIT SUCCESSFUL OR GOVERNOR USES EXECUTIVE AUTHORITY FOR "CRITICAL OPERATIONS" (May be contacted to complete affidavit for legal proceedings.)  • <input type="checkbox"/> Operations identified as "critical" or "agency discretion" can plan on staying open. Others relying on Federal arguments or Contract Default should make plans to close and receive notice of ability to remain open June 27-July 1 depending on result of Attorney General Success in lawsuit.  <u>Additional Federal or Contract Arguments That Could Be Raised</u>
AMATEUR SPORTS COMM  Total Employees: 8	Closed		
ANIMAL HEALTH BOARD  Total Employees: 31	The following portions of your critical operations plan have been approved:  • <input type="checkbox"/> Investigate suspect rabies cases; and, • <input type="checkbox"/> Investigate suspect foreign animal disease cases.  Only staff and operating expenses that are minimally necessary to continue, secure, or support these operations are authorized in the event of a government shut down.		
ARCHITECTURE, ENGINEERING BD  Total Employees: 9	Closed		
ARTS BOARD  Total Employees: 21	Closed		
ASIAN-PACIFIC COUNCIL  Total Employees: 4	Closed		

AGENCY	If do remain open, should make sure that necessary services and capacity are available for business continuation with other agencies with whom may normally coordinate.		
	CRITICAL OPERATIONS OR OPERATIONS IN DIRECT SUPPORT OF CRITICAL OPERATIONS That May Remain <b>Open</b> (May be contacted to complete affidavit for legal proceeding.)  <b>All Others Closed</b> Unless Listed In "Agency Discretion" Or "Attorney General" Columns	AGENCY DISCRETION TO CONTINUE OPERATIONS	CAN ONLY REMAIN OPEN IF ATTORNEY GENERAL LAWSUIT SUCCESSFUL OR GOVERNOR USES EXECUTIVE AUTHORITY FOR "CRITICAL OPERATIONS" (May be contacted to complete affidavit for legal proceedings.)  Operations identified as "critical" or "agency discretion" can plan on staying open. Others relying on Federal arguments or Contract Default should make plans to close and receive notice of ability to remain open June 27-July 1 depending on result of Attorney General Success in Lawsuit.
			<u>Additional Federal or Contract Arguments That Could Be Raised</u>
BARBERS BOARD Total Employees: 2	Closed		
BLACK MINNESOTANS COUNCIL Total Employees: 4	Closed		
CAMPAIGN FINANCE BOARD Total Employees: 8	Closed		
CAPITOL AREA ARCHITECT Total Employees: 4	Closed		
CENTER FOR ARTS EDUCATION Total Employees: 95	Closed		
CHICANO LATINO AFFAIRS COUNCIL Total Employees: 5	Closed		



AGENCY	If do remain open, should make sure that necessary services and capacity are available for business continuation with other agencies with whom may normally coordinate.		
	CRITICAL OPERATIONS OR OPERATIONS IN DIRECT SUPPORT OF CRITICAL OPERATIONS That May Remain <b>Open</b> (May be contacted to complete affidavit for legal proceeding.)  <b>All Others Closed</b> Unless Listed In "Agency Discretion" Or "Attorney General" Columns	AGENCY DISCRETION TO CONTINUE OPERATIONS	CAN ONLY REMAIN OPEN IF ATTORNEY GENERAL LAWSUIT SUCCESSFUL OR GOVERNOR USES EXECUTIVE AUTHORITY FOR "CRITICAL OPERATIONS" (May be contacted to complete affidavit for legal proceedings.)
			Operations identified as "critical" or "agency discretion" can plan on staying open. Others relying on Federal arguments or Contract Default should make plans to close and receive notice of ability to remain open June 27-July 1 depending on result of Attorney General Success in Lawsuit.  <u>Additional Federal or Contract Arguments That Could Be Raised</u>
CHILDREN, FAMILIES, & LEARNING  Total Employees: 561	Portions of plan submitted for critical operations approved:  • <input type="checkbox"/> Maltreatment of Minors Program  Only staff and operating expenses that are minimally necessary to continue, secure, or support this operation is authorized in the event of a government shut down.	Since have a standing and open appropriation, CFL can make education funding payments so long as no or de minimis use of resources of general fund agencies already providing resources to "critical operations."  Other activities which can continue at agency discretion under same proviso as above include: • <input type="checkbox"/> Child Care Assistance Program • <input type="checkbox"/> Child Care Automation Project • <input type="checkbox"/> Special Education Compliance • <input type="checkbox"/> Food & Nutrition Program	Special Education- Extended School Year Services. School districts would be obligated to provide this under federal law.
CHIROPRACTIC EXAMINERS BOARD  Total Employees: 5	Closed		
COMMERCE DEPT  Total Employees: 328	Plan submitted for critical operations approved. Included:  • <input type="checkbox"/> Payment for the Minnesota Message Relay Service.		

AGENCY	If do remain open, should make sure that necessary services and capacity are available for business continuation with other agencies with whom may normally coordinate.		
	CRITICAL OPERATIONS OR OPERATIONS IN DIRECT SUPPORT OF CRITICAL OPERATIONS That May Remain <b>Open</b> (May be contacted to complete affidavit for legal proceeding.)  <b>All Others Closed</b> Unless Listed In "Agency Discretion" Or "Attorney General" Columns	AGENCY DISCRETION TO CONTINUE OPERATIONS	CAN ONLY REMAIN OPEN IF ATTORNEY GENERAL LAWSUIT SUCCESSFUL OR GOVERNOR USES EXECUTIVE AUTHORITY FOR "CRITICAL OPERATIONS" (May be contacted to complete affidavit for legal proceedings.)  • Operations identified as "critical" or "agency discretion" can plan on staying open. Others relying on Federal arguments or Contract Default should make plans to close and receive notice of ability to remain open June 27-July 1 depending on result of Attorney General Success in Lawsuit.
			Additional Federal or Contract Arguments That Could Be Raised
CORRECTIONS DEPT  Total Employees: 3810	Plan submitted for critical operations approved. Included:  <ul style="list-style-type: none"> <li><input type="checkbox"/> Corrections Institutions <ul style="list-style-type: none"> <li><input type="checkbox"/> Inmate custody</li> <li><input type="checkbox"/> Health Services</li> <li><input type="checkbox"/> Transfer and Transportation</li> <li><input type="checkbox"/> Special Investigations</li> <li><input type="checkbox"/> Facility Support</li> <li><input type="checkbox"/> Physical Plant</li> </ul> </li> <li><input type="checkbox"/> Offender Community Supervision</li> <li><input type="checkbox"/> Support Services Directly Related to Institutional Care and Offender Community Supervision</li> </ul> Only staff and operating expenses that are minimally necessary to continue, secure, or support these operations are authorized in the event of a government shut down.	Camp Thistledeew so long as no or de minimis use of resources of general fund agencies already providing resources to "critical operations"	
CRIME VICTIM OMBUDSMAN  Total Employees: 5	Closed		
DENTISTRY BOARD  Total Employees: 10	Closed		

AGENCY	If do remain open, should make sure that necessary services and capacity are available for business continuation with other agencies with whom may normally coordinate.		
	CRITICAL OPERATIONS OR OPERATIONS IN DIRECT SUPPORT OF CRITICAL OPERATIONS That May Remain <b>Open</b> (May be contacted to complete affidavit for legal proceeding.)  <b>All Others Closed</b> Unless Listed In "Agency Discretion" Or "Attorney General" Columns	AGENCY DISCRETION TO CONTINUE OPERATIONS	CAN ONLY REMAIN OPEN IF ATTORNEY GENERAL LAWSUIT SUCCESSFUL OR GOVERNOR USES EXECUTIVE AUTHORITY FOR "CRITICAL OPERATIONS" (May be contacted to complete affidavit for legal proceedings.)  Operations identified as "critical" or "agency discretion" can plan on staying open. Others relying on Federal arguments or Contract Default should make plans to close and receive notice of ability to remain open June 27-July 1 depending on result of Attorney General Success in lawsuit.
			<u>Additional Federal or Contract Arguments That Could Be Raised</u>
DIETETICS & NUTRITION PRACTICE Total Employees: 2	Closed		
DISABILITY COUNCIL Total Employees: 10	Closed		
ECONOMIC SECURITY DEPT Total Employees: 1780	Plan submitted for critical operations approved. Included:  • <input type="checkbox"/> Unemployment Insurance Benefit Payments and Initial Claims  Only staff and operating expenses that are minimally necessary to continue, secure, or support these operations are authorized in the event of a government shut down.		
ELECTRICITY BOARD Total Employees: 27	NA	Since don't rely on general funds and so long as no or de minimis use of resources of general fund agencies supporting critical operations, this operation may continue at the discretion of the agency	

AGENCY	If do remain open, should make sure that necessary services and capacity are available for business continuation with other agencies with whom may normally coordinate.		
	CRITICAL OPERATIONS OR OPERATIONS IN DIRECT SUPPORT OF CRITICAL OPERATIONS That May Remain <b>Open</b> (May be contacted to complete affidavit for legal proceedings.)  <b>All Others Closed</b> Unless Listed in "Agency Discretion" Or "Attorney General" Columns	AGENCY DISCRETION TO CONTINUE OPERATIONS	CAN ONLY REMAIN OPEN IF ATTORNEY GENERAL LAWSUIT SUCCESSFUL OR GOVERNOR USES EXECUTIVE AUTHORITY FOR "CRITICAL OPERATIONS" (May be contacted to complete affidavit for legal proceedings.)  <input type="checkbox"/> Operations identified as "critical" or "agency discretion" can plan on staying open. Others relying on Federal arguments or Contract Default should make plans to close and receive notice of ability to remain open June 27-July 1 depending on result of Attorney General Success in Lawsuit.
			<u>Additional Federal or Contract Arguments That Could Be Raised</u>
EMERGENCY MEDICAL SERVICES BD  Total Employees: 15	Plan submitted for support of critical operations approved on an <b>as-needed basis</b> . Included:  <ul style="list-style-type: none"> <li><input type="checkbox"/> Ensuring ambulance coverage in the area of disaster declared by Governor's emergency management response team (On-call only)</li> </ul> Only staff and operating expenses that are <b>minimally necessary</b> to continue, secure, or support these operations are authorized in the event of a government shut down.		
EMPLOYEE RELATIONS DEPT  Total Employees: 226	Plan submitted for support of critical operations approved. Included:  <ul style="list-style-type: none"> <li><input type="checkbox"/> Limited Information Systems Support for critical systems.</li> <li><input type="checkbox"/> Limited support from SEMA4 unit only for July 13 payroll.</li> <li><input type="checkbox"/> SEGIP program</li> <li><input type="checkbox"/> Workers Compensation</li> </ul> Only staff and operating expenses that are <b>minimally necessary</b> to continue, secure, or support these operations are authorized in the event of a government shut down.		
ENVIRONMENTAL ASSISTANCE  Total Employees: 65	Closed		



AGENCY	If do remain open, should make sure that necessary services and capacity are available for business continuation with other agencies with whom may normally coordinate		
	CRITICAL OPERATIONS OR OPERATIONS IN DIRECT SUPPORT OF CRITICAL OPERATIONS That May Remain <b>Open</b> (May be contacted to complete affidavit for legal proceeding.)  <b>All Others Closed</b> (Unless Listed In "Agency Discretion" Or "Attorney General" Columns)	AGENCY DISCRETION TO CONTINUE OPERATIONS	CAN ONLY REMAIN OPEN IF ATTORNEY GENERAL LAWSUIT SUCCESSFUL OR GOVERNOR USES EXECUTIVE AUTHORITY FOR "CRITICAL OPERATIONS" (May be contacted to complete affidavit for legal proceedings.)  • Operations identified as "critical" or "agency discretion" can plan on staying open. Others relying on Federal arguments or Contract Default should make plans to close and receive notice of ability to remain open June 27-July 1 depending on result of Attorney General Success in Lawsuit.
			<u>Additional Federal or Contract Arguments That Could Be Raised</u>
FARIBAULT ACADEMIES  Total Employees: 293	Plan submitted for support of critical operations approved. Included:  • <input type="checkbox"/> Security personnel necessary to provide 24/7 coverage of two sites (16 state buildings) and 60+ acres of government land at an estimated value of \$80-\$100 million.  Only staff and operating expenses that are minimally necessary to continue, secure, or support these operations are authorized in the event of a government shut down.		Continuation of academies under requirements of Public law 94-142, and Individuals with Disabilities Act.
FINANCE DEPT  Total Employees: 174	Plan submitted for support of critical operations approved. Included:  Direct Support of Critical Operations <ul style="list-style-type: none"> <li>Periodically Opening MAPs for purchasing/payments</li> <li>Periodically opening Payroll for paying critical employees or making last FY 01 payroll.</li> </ul> Only staff and operating expenses that are minimally necessary to continue, secure, or support these operations are authorized in the event of a government shut down.		
GAMBLING CONTROL BOARD  Total Employees: 34	Closed		

AGENCY	If do remain open, should make sure that necessary services and capacity are available for business continuation with other agencies with whom may normally coordinate.		
	CRITICAL OPERATIONS OR OPERATIONS IN DIRECT SUPPORT OF CRITICAL OPERATIONS  That May Remain <b>Open</b> (May be contacted to complete affidavit for legal proceeding.)  <b>All Others Closed</b> Unless Listed In "Agency Discretion" Or "Attorney General" Columns	AGENCY DISCRETION TO CONTINUE OPERATIONS	CAN ONLY REMAIN OPEN IF ATTORNEY GENERAL LAWSUIT SUCCESSFUL OR GOVERNOR USES EXECUTIVE AUTHORITY FOR "CRITICAL OPERATIONS" (May be contacted to complete affidavit for legal proceedings.)  • <input type="checkbox"/> Operations identified as "critical" or "agency discretion" can plan on staying open. Others relying on federal arguments or Contract Default should make plans to close and receive notice of ability to remain open June 27-July 1 depending on result of Attorney General Success in Lawsuit.
			<u>Additional Federal or Contract Arguments That Could Be Raised</u>
GOVERNORS OFFICE  Total Employees: 51	As the Chief Executive Officer of government, the Office of Governor will continue with minimal staff during the shutdown to include:  • <input type="checkbox"/> Governor • <input type="checkbox"/> Lt. Governor • <input type="checkbox"/> Senior Team • <input type="checkbox"/> Communications • <input type="checkbox"/> Policy Management • <input type="checkbox"/> Operations		
GOVT INNOV & COOPERATION BOARD  Total Employees: 1	Closed		

AGENCY	If do remain open, should make sure that necessary services and capacity are available for business continuation with other agencies with whom may normally coordinate		
	CRITICAL OPERATIONS OR OPERATIONS IN DIRECT SUPPORT OF CRITICAL OPERATIONS  That May Remain <b>Open</b> (May be contacted to complete affidavit for legal proceeding.)  <b>All Others Closed</b> Unless Listed in "Agency Discretion" Or "Attorney General" Columns	AGENCY DISCRETION TO CONTINUE OPERATIONS	CAN ONLY REMAIN OPEN IF ATTORNEY GENERAL LAWSUIT SUCCESSFUL OR GOVERNOR USES EXECUTIVE AUTHORITY FOR "CRITICAL OPERATIONS" (May be contacted to complete affidavit for legal proceedings.)  • Operations identified as "critical" or "agency discretion" can plan on staying open. Others relying on Federal arguments or Contract Default should make plans to close and receive notice of ability to remain open June 27-July 1 depending on result of Attorney General Success in Lawsuit.
			<u>Additional Federal or Contract Arguments That Could Be Raised</u>
HEALTH DEPT  Total Employees: 1311	Plan submitted for support of critical operations approved. Included:  <ul style="list-style-type: none"> <li><input type="checkbox"/> Investigate and respond to Disease Outbreaks</li> <li><input type="checkbox"/> Core Public Health Laboratory Capacity</li> <li><input type="checkbox"/> Health Facilities Complaint Investigation</li> <li><input type="checkbox"/> Safeguard Public Health Data</li> <li><input type="checkbox"/> Emergency Response to Nuclear Accidents and other toxic releases</li> <li><input type="checkbox"/> Public Health Management &amp; Communications</li> <li><input type="checkbox"/> Facility Security</li> <li><input type="checkbox"/> Minnesota Children With Special Health Needs</li> <li><input type="checkbox"/> WIC</li> </ul> Only staff and operating expenses that are minimally necessary to continue, secure, or support these operations are authorized in the event of a government shut down.		
HIGHER ED FACILITIES AUTHORITY  Total Employees: 3	NA	Since don't rely on general funds and so long as no or de minimis use of resources of general fund agencies supporting critical operations, operations may continue at the discretion of the agency	

AGENCY	If do remain open, should make sure that necessary services and capacity are available for business continuation with other agencies with whom may normally coordinate		
	CRITICAL OPERATIONS OR OPERATIONS IN DIRECT SUPPORT OF CRITICAL OPERATIONS That May Remain <b>Open</b> (May be contacted to complete affidavit for legal proceeding.)  <b>All Others Closed</b> Unless Listed In "Agency Discretion" Or "Attorney General" Columns	AGENCY DISCRETION TO CONTINUE OPERATIONS	CAN ONLY REMAIN OPEN IF ATTORNEY GENERAL LAWSUIT SUCCESSFUL OR GOVERNOR USES EXECUTIVE AUTHORITY FOR "CRITICAL OPERATIONS" (May be contacted to complete affidavit for legal proceedings.)  Operations identified as "critical" or "agency discretion" can plan on staying open. Others relying on Federal arguments or Contract Default should make plans to close and receive notice of ability to remain open June 27-July 1 depending on result of Attorney General Success in lawsuit.
			<u>Additional Federal or Contract Arguments That Could Be Raised</u>
HIGHER ED SERVICES OFFICE  Total Employees: 78	Closed		Student Educational Loan Fund which involves contract performance where the state could experience substantial money damages if state defaults and loss of Triple A bond rating. – This will accrue if government lasts for greater than five (5) days.  FTE Needed: 2
HOUSING FINANCE AGENCY  Total Employees: 184	NA	Since don't rely on general funds and so long as no or de minimis use of resources of general fund agencies supporting critical operations, this operation may continue at the discretion of the agency	
HUMAN RIGHTS DEPT  Total Employees: 64	Closed		Should be allowed to keep sufficient staff to date-stamp and docket charges of unlawful discrimination and drafting and filing of selected charges in order to preserve individual legal rights.  Need: 2 FTE  Personnel Costs: \$2,400 per week.



AGENCY	If do remain open, should make sure that necessary services and capacity are available for business continuation with other agencies with whom may normally coordinate.		
	CRITICAL OPERATIONS OR OPERATIONS IN DIRECT SUPPORT OF CRITICAL OPERATIONS That May Remain <b>Open</b> (May be contacted to complete affidavit for legal proceeding.)  <b>All Others Closed</b> Unless Listed In "Agency Discretion" Or "Attorney General" Columns	AGENCY DISCRETION TO CONTINUE OPERATIONS	CAN ONLY REMAIN OPEN IF ATTORNEY GENERAL LAWSUIT SUCCESSFUL OR GOVERNOR USES EXECUTIVE AUTHORITY FOR "CRITICAL OPERATIONS" (May be contacted to complete affidavit for legal proceedings.)  <input type="checkbox"/> Operations identified as "critical" or "agency discretion" can plan on staying open. Others relying on Federal arguments or Contract Default should make plans to close and receive notice of ability to remain open June 27-July 1 depending on result of Attorney General Success in Lawsuit.  <u>Additional Federal or Contract Arguments That Could Be Raised</u>
HUMAN SERVICES DEPT  Total Employees: 6739	The following portions of your critical operations plan have been approved:  <input type="checkbox"/> State Operated Services-in-patient treatment for mentally ill, chemically dependent, psychopathic personalities, & nursing home services. Includes support & oversight for client treatment services. Minnesota Extended Treatment Options (METO), day training and habilitation services (DT&H). <input type="checkbox"/> Residential services for persons with developmental disabilities <input type="checkbox"/> Mental Health initiative medication administration & crisis response teams <input type="checkbox"/> Developmentally disabled community support services-In home support staff & crises <input type="checkbox"/> Cash & Food Assistance to Families & Individuals <input type="checkbox"/> Adoption Assistance Payments/Custody Assistance <input type="checkbox"/> Health care-Medical Assistance, General Assistance Medical Care, & Minnesota Care <input type="checkbox"/> Payments to personal care attendants, private duty nursing services, home health agencies, waiver service providers, pharmacy services, & nursing homes. <input type="checkbox"/> Payments to special transportation providers paid through the medical assistance program.  (continued on next page)	Since don't rely on general funds and so long as no or de minimis use of resources of general fund agencies supporting critical operations, portions of the following operations may continue at the discretion of the agency:  <input type="checkbox"/> State Operated Services-- Outside Laundry Contracts <input type="checkbox"/> Receipt and Disbursement of Child Support Payments <input type="checkbox"/> HIV/AIDS program.	

AGENCY	If do remain open, should make sure that necessary services and capacity are available for business continuation with other agencies with whom may normally coordinate.		
	CRITICAL OPERATIONS OR OPERATIONS IN DIRECT SUPPORT OF CRITICAL OPERATIONS That May Remain <b>Open</b> (May be contacted to complete affidavit for legal proceeding.)  <b>All Others Closed</b> Unless Listed In "Agency Discretion" Or "Attorney General" Columns	AGENCY DISCRETION TO CONTINUE OPERATIONS	CAN ONLY REMAIN OPEN IF ATTORNEY GENERAL LAWSUIT SUCCESSFUL OR GOVERNOR USES EXECUTIVE AUTHORITY FOR "CRITICAL OPERATIONS" (May be contacted to complete affidavit for legal proceedings.)  Operations identified as "critical" or "agency discretion" can plan on staying open. Others relying on Federal arguments or Contract Default should make plans to close and receive notice of ability to remain open June 27-July 1 depending on result of Attorney General Success in Lawsuit.
			<u>Additional Federal or Contract Arguments That Could Be Raised</u>
HUMAN SERVICES DEPT (continued)  Total Employees: 6739	<input type="checkbox"/> Staff to process premium payments for MnCare enrollees <input type="checkbox"/> Senior Nutrition & home delivered meals <input type="checkbox"/> Guardianship Services <input type="checkbox"/> Social Service Information System (SSIS) Help-Line & Network Support to County Servers  Only staff and operating expenses that are minimally necessary to continue, secure, or support these operations are authorized in the event of a government shut down.		
INDIAN AFFAIRS COUNCIL  Total Employees: 8	Closed		
INVESTMENT BOARD  Total Employees: 25	Closed		
IRON RANGE RESOURCES & REHAB  Total Employees: 177	NA	Since don't rely on general funds and so long as no or de minimis use of resources of general fund agencies supporting critical operations, operations may continue at the discretion of the agency.	

AGENCY	If do remain open, should make sure that necessary services and capacity are available for business continuation with other agencies with whom may normally coordinate.		
	CRITICAL OPERATIONS OR OPERATIONS IN DIRECT SUPPORT OF CRITICAL OPERATIONS  That May Remain <b>Open</b> (May be contacted to complete affidavit for legal proceeding.)  <b>All Others Closed</b> Unless Listed In "Agency Discretion" Or "Attorney General" Columns	AGENCY DISCRETION TO CONTINUE OPERATIONS	CAN ONLY REMAIN OPEN IF ATTORNEY GENERAL LAWSUIT SUCCESSFUL OR GOVERNOR USES EXECUTIVE AUTHORITY FOR "CRITICAL OPERATIONS" (May be contacted to complete affidavit for legal proceedings.)  Operations identified as "critical" or "agency discretion" can plan on staying open. Others relying on federal arguments or Contract Default should make plans to close and receive notice of ability to remain open June 27-July 1 depending on result of Attorney General Success In Lawsuit.
			Additional Federal or Contract Arguments That Could Be Raised
LABOR AND INDUSTRY DEPT  Total Employees: 404	<p>The following portions of your critical operations plan have been approved:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Limited Workplace Safety/Health Regulation- Response to fatalities, imminent danger and catastrophic workplace events.</li> <li><input type="checkbox"/> Boiler Vessel &amp; High Pressure Piping- Limited to Boiler/Piping system failures causing fatal or imminent danger.</li> <li><input type="checkbox"/> Child Labor Regulation</li> <li><input type="checkbox"/> Benefit Payments to Injured Workers</li> <li><input type="checkbox"/> DLI Central and Technology Services</li> </ul> <p>Only staff and operating expenses that are minimally necessary to continue, secure, or support these operations are authorized in the event of a government shut down.</p>		
LOTTERY  Total Employees: 206	NA	Since don't rely on general funds and so long as no or de minimis use of resources of general fund agencies supporting critical operations, operations may continue at the discretion of the agency.	
MARRIAGE & FAMILY THERAPY BD  Total Employees: 2	Closed		

AGENCY	If do remain open, should make sure that necessary services and capacity are available for business continuation with other agencies with whom may normally coordinate		
	CRITICAL OPERATIONS OR OPERATIONS IN DIRECT SUPPORT OF CRITICAL OPERATIONS That May Remain <b>Open</b> (May be contacted to complete affidavit for legal proceeding.)  <b>All Others Closed</b> Unless Listed In "Agency Discretion" Or "Attorney General" Columns	AGENCY DISCRETION TO CONTINUE OPERATIONS	CAN ONLY REMAIN OPEN IF ATTORNEY GENERAL LAWSUIT SUCCESSFUL OR GOVERNOR USES EXECUTIVE AUTHORITY FOR "CRITICAL OPERATIONS" (May be contacted to complete affidavit for legal proceedings.)  Operations identified as "critical" or "agency discretion" can plan on staying open. Others relying on Federal arguments or Contract Default should make plans to close and receive notice of ability to remain open June 27-July 1 depending on result of Attorney General Success in lawsuit.
			<u>Additional Federal or Contract Arguments That Could Be Raised</u>
MEDIATION SERVICES DEPT  Total Employees: 23	Closed		
MEDICAL PRACTICE BOARD  Total Employees: 24	<p>The following portions of your critical operations plan have been approved:</p> <ul style="list-style-type: none"> <li>Processing and investigating complaints against physicians and other health care providers alleging unsafe or illegal health care practices.</li> <li>Issuing new licenses and permits to physicians and other regulated health care providers.</li> <li>Renewal of licenses and registrations to physicians and other health care providers in order that they may continue to practice medicine legally.</li> </ul> <p>Only staff and operating expenses that are minimally necessary to continue, secure, or support these operations are authorized in the event of a government shut down.</p>		



AGENCY	If do remain open, should make sure that necessary services and capacity are available for business continuation with other agencies with whom may normally coordinate.		
	CRITICAL OPERATIONS OR OPERATIONS IN DIRECT SUPPORT OF CRITICAL OPERATIONS That May Remain <b>Open</b> (May be contacted to complete affidavit for legal proceeding.)  <b>All Others Closed</b> Unless Listed In "Agency Discretion" Or "Attorney General" Columns	AGENCY DISCRETION TO CONTINUE OPERATIONS	CAN ONLY REMAIN OPEN IF ATTORNEY GENERAL LAWSUIT SUCCESSFUL OR GOVERNOR USES EXECUTIVE AUTHORITY FOR "CRITICAL OPERATIONS" (May be contacted to complete affidavit for legal proceedings.)  <input type="checkbox"/> Operations identified as "critical" or "agency discretion" can plan on staying open. Others relying on Federal arguments or Contract Default should make plans to close and receive notice of ability to remain open June 27-July 1 depending on result of Attorney General Success in Lawsuit.  <u>Additional Federal or Contract Arguments That Could Be Raised</u>
METROPOLITAN COUNCIL	The following portions of your critical operations plan have been approved:  <ul style="list-style-type: none"> <li>• Metro-Mobility</li> </ul> Only staff and operating expenses that are minimally necessary to continue, secure, or support these operations are authorized in the event of a government shut down.	With exception of Metro Mobility, don't rely on general funds and so long as no or de minimis use of resources of general fund agencies supporting critical operations, operations may continue at the discretion of the agency.	
MILITARY AFFAIRS DEPT  Total Employees: 308	The following portions of your critical operations plan have been approved:  <ul style="list-style-type: none"> <li>• <input type="checkbox"/> Property Protection</li> <li>• <input type="checkbox"/> Emergency and Disaster Assistance</li> <li>• <input type="checkbox"/> Waste Water Treatment</li> </ul> Only staff and operating expenses that are minimally necessary to continue, secure, or support these operations are authorized in the event of a government shut down.	Since don't rely on general funds and so long as no or de minimis use of resources of general fund agencies supporting critical operations, portions of the following operations may continue at the discretion of the agency:  <ul style="list-style-type: none"> <li>• <input type="checkbox"/> Security &amp; Utilities               <ul style="list-style-type: none"> <li>• <input type="checkbox"/> MSP Airbase</li> <li>• <input type="checkbox"/> DUL Airbase</li> <li>• <input type="checkbox"/> Camp Ripley</li> </ul> </li> <li>• <input type="checkbox"/> Contracting Support</li> </ul>	

AGENCY	If do remain open, should make sure that necessary services and capacity are available for business continuation with other agencies with whom may normally coordinate		
	CRITICAL OPERATIONS OR OPERATIONS IN DIRECT SUPPORT OF CRITICAL OPERATIONS That May Remain <b>Open</b> (May be contacted to complete affidavit for legal proceeding.)  <b>All Others Closed</b> Unless Listed In "Agency Discretion" Or "Attorney General" Columns	AGENCY DISCRETION TO CONTINUE OPERATIONS	CAN ONLY REMAIN OPEN IF ATTORNEY GENERAL LAWSUIT SUCCESSFUL OR GOVERNOR USES EXECUTIVE AUTHORITY FOR "CRITICAL OPERATIONS" (May be contacted to complete affidavit for legal proceedings.)  • <input type="checkbox"/> Operations identified as "critical" or "agency discretion" can plan on staying open. Others relying on Federal arguments or Contract Default should make plans to close and receive notice of ability to remain open June 27-July 1 depending on result of Attorney General Success in Lawsuit.
			Additional Federal or Contract Arguments That Could Be Raised
MN STATE COLLEGES/UNIVERSITIES  Total Employees: 19306	NA	Continuation of operations due to other funding sources that may allow institution to continue until July 17 before phased closings occur so long as require no or de minimis use of resources of general fund agencies already providing resources to "critical operations".	
NATURAL RESOURCES DEPT  Total Employees: 2629	<p>The following portions of your critical operations plan have been approved:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Securing /Protecting DNR properties</li> <li><input type="checkbox"/> Law enforcement/criminal investigations</li> <li><input type="checkbox"/> Emergency/Disaster Assistance</li> <li><input type="checkbox"/> Protection of Research Property Metro Goose Control Project</li> </ul> <p>Note: Others (up to 75) may be added in event of emergencies such as fire, flood, tornado, etc.</p> <p>Only staff and operating expenses that are minimally necessary to continue, secure, or support these operations are authorized in the event of a government shut down.</p>	Since federally funded, Upper Mississippi Long Term Resource Monitoring Project so long as require no or de minimis use of resources of general fund agencies already providing resources to "critical operations".	<p>Contract performance where a suspension or termination could be regarded as material default-</p> <p>1 FTE/\$2,000 per week</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Building, road, and bridge projects 10 FTE/\$20,000 per week</li> <li><input type="checkbox"/> Taconite Harbor of Refuge on Lake Superior 1FTE/On-Call</li> </ul>

AGENCY	If do remain open, should make sure that necessary services and capacity are available for business continuation with other agencies with whom may normally coordinate		
	CRITICAL OPERATIONS OR OPERATIONS IN DIRECT SUPPORT OF CRITICAL OPERATIONS That May Remain <b>Open</b> (May be contacted to complete affidavit for legal proceeding.)  <b>All Others Closed</b> Unless Listed In "Agency Discretion" Or "Attorney General" Columns	AGENCY DISCRETION TO CONTINUE OPERATIONS	CAN ONLY REMAIN OPEN IF ATTORNEY GENERAL LAWSUIT SUCCESSFUL OR GOVERNOR USES EXECUTIVE AUTHORITY FOR "CRITICAL OPERATIONS" (May be contacted to complete affidavit for legal proceedings.)  Operations identified as "critical" or "agency discretion" can plan on staying open. Others relying on Federal arguments or Contract Default should make plans to close and receive notice of ability to remain open June 27-July 1 depending on result of Attorney General Success in Lawsuit.
			Additional Federal or Contract Arguments That Could Be Raised
NURSING BOARD Total Employees: 36	<p>The following portions of your critical operations plan have been approved:</p> <ul style="list-style-type: none"> <li>Processing complaints alleging unsafe nursing practices.</li> <li>Issuing of licenses/temporary permits to practice nursing</li> <li>Renewal of licensure</li> <li>Health Professional Services Program <ul style="list-style-type: none"> <li>Accept self and third party referrals to the program</li> <li>Respond to issues of non-compliance</li> </ul> </li> </ul> <p>Only staff and operating expenses that are minimally necessary to continue, secure, or support these operations are authorized in the event of a government shut down.</p>		
NURSING HOME ADMIN BOARD Total Employees: 2	Closed		
OMBUDSMAN FOR CORRECTIONS Total Employees: 5	Closed		

AGENCY	If do remain open, should make sure that necessary services and capacity are available for business continuation with other agencies with whom may normally coordinate		
	CRITICAL OPERATIONS OR OPERATIONS IN DIRECT SUPPORT OF CRITICAL OPERATIONS That May Remain <b>Open</b> (May be contacted to complete affidavit for legal proceeding.)  <b>All Others Closed</b> Unless Listed In "Agency Discretion" Or "Attorney General" Columns	AGENCY DISCRETION TO CONTINUE OPERATIONS	CAN ONLY REMAIN OPEN IF ATTORNEY GENERAL LAWSUIT SUCCESSFUL OR GOVERNOR USES EXECUTIVE AUTHORITY FOR "CRITICAL OPERATIONS" (May be contacted to complete affidavit for legal proceedings.)  Operations identified as "critical" or "agency discretion" can plan on staying open. Others relying on Federal arguments or Contract Default should make plans to close and receive notice of ability to remain open June 27-July 1 depending on result of Attorney General Success in Lawsuit.
			Additional Federal or Contract Arguments That Could Be Raised
			OMBUDSMAN MH/MR  Total Employees: 20
OMBUDSPERSON FOR FAMILIES  Total Employees: 4	Closed		
OPTOMETRY BOARD  Total Employees: 2	Closed		
PEACE OFFICERS BOARD (POST)  Total Employees: 13	Closed		



AGENCY	If do remain open, should make sure that necessary services and capacity are available for business continuation with other agencies with whom may normally coordinate.		
	CRITICAL OPERATIONS OR OPERATIONS IN DIRECT SUPPORT OF CRITICAL OPERATIONS That May Remain <b>Open</b> (May be contacted to complete affidavit for legal proceeding.)  <b>All Others Closed</b> Unless Listed In "Agency Discretion" Or "Attorney General" Columns	AGENCY DISCRETION TO CONTINUE OPERATIONS	CAN ONLY REMAIN OPEN IF ATTORNEY GENERAL LAWSUIT SUCCESSFUL OR GOVERNOR USES EXECUTIVE AUTHORITY FOR "CRITICAL OPERATIONS" (May be contacted to complete affidavit for legal proceedings.)  <input type="checkbox"/> Operations identified as "critical" or "agency discretion" can plan on staying open. Others relying on Federal arguments or Contract Default should make plans to close and receive notice of ability to remain open June 27-July 1 depending on result of Attorney General Success in Lawsuit.  <u>Additional Federal or Contract Arguments That Could Be Raised</u>
PHARMACY BOARD  Total Employees: 15	The following portions of your critical operations plan have been approved:  <input type="checkbox"/> Inspectors/investigators for enforcement of sanitation and record keeping requirements relating to the safety of drug distribution and dispensing in Minnesota.  Only staff and operating expenses that are minimally necessary to continue, secure, or support these operations are authorized in the event of a government shut down.		Individuals needed to score national, uniform examinations and issue licenses to pharmacists.  5 FTE
PHYSICAL THERAPY BOARD  Total Employees: 1	Closed		
PLANNING, STRATEGIC & L R  Total Employees: 88	Closed		
PODIATRIC MEDICINE BOARD  Total Employees: 1	Closed		

AGENCY	If do remain open, should make sure that necessary services and capacity are available for business continuation with other agencies with whom may normally coordinate.		
	CRITICAL OPERATIONS OR OPERATIONS IN DIRECT SUPPORT OF CRITICAL OPERATIONS That May Remain <b>Open</b> (May be contacted to complete affidavit for legal proceeding.)  <b>All Others Closed</b> Unless Listed In "Agency Discretion" Or "Attorney General" Columns	AGENCY DISCRETION TO CONTINUE OPERATIONS	CAN ONLY REMAIN OPEN IF ATTORNEY GENERAL LAWSUIT SUCCESSFUL OR GOVERNOR USES EXECUTIVE AUTHORITY FOR "CRITICAL OPERATIONS" (May be contacted to complete affidavit for legal proceedings.)  <input type="checkbox"/> Operations identified as "critical" or "agency discretion" can plan on staying open. Others relying on Federal arguments or Contract Default should make plans to close and receive notice of ability to remain open June 27-July 1 depending on result of Attorney General Success In Lawsuit.  <u>Additional Federal or Contract Arguments That Could Be Raised</u>
POLLUTION CONTROL AGENCY  Total Employees: 763	The following portions of your critical operations plan have been approved:  • <input type="checkbox"/> Emergency Response Remediation  Only staff and operating expenses that are minimally necessary to continue, secure, or support these operations are authorized in the event of a government shut down.	Since don't rely on general funds and so long as no or de minimis use of resources of general fund agencies supporting critical operations, portions of the following operations may continue at the discretion of the agency:  Particulate matter 2.5 Ambient Air Monitoring Network- federal grant funds to monitor particulate matter on a DAILY basis.  Methylmercury Sources- federal grant that provides transport of mercury in watersheds and studying the potential for methylation in fish. Work is contracted out.  Mercury Emissions in the Great Lakes Region- federal grant to research mercury emissions from sludge, combustion, waste-amended soils in the great lakes region. Work is contracted out.	

AGENCY	If do remain open, should make sure that necessary services and capacity are available for business continuation with other agencies with whom may normally coordinate	CRITICAL OPERATIONS OR OPERATIONS IN DIRECT SUPPORT OF CRITICAL OPERATIONS That May Remain <b>Open</b> (May be contacted to complete affidavit for legal proceedings)  <b>All Others Closed</b> Unless Listed in "Agency Discretion" Or "Attorney General" Columns	AGENCY DISCRETION TO CONTINUE OPERATIONS	CAN ONLY REMAIN OPEN IF ATTORNEY GENERAL LAWSUIT SUCCESSFUL OR GOVERNOR USES EXECUTIVE AUTHORITY FOR "CRITICAL OPERATIONS" (May be contacted to complete affidavit for legal proceedings)  Operations identified as "critical" or "agency discretion" can plan on staying open. Others relying on Federal arguments or Contract Default should make plans to close and receive notice of ability to remain open June 27-July 1 depending on result of Attorney General Success in Lawsuit.  <u>Additional Federal or Contract Arguments That Could Be Raised</u>
PRIVATE DETECTIVES BOARD	Total Employees: 2	Closed		
PSYCHOLOGY BOARD	Total Employees: 8	Closed		

AGENCY	If do remain open, should make sure that necessary services and capacity are available for business continuation with other agencies with whom may normally coordinate		
	CRITICAL OPERATIONS OR OPERATIONS IN DIRECT SUPPORT OF CRITICAL OPERATIONS  That May Remain <b>Open</b> (May be contacted to complete affidavit for legal proceeding.)  <b>All Others Closed</b> Unless Listed In "Agency Discretion" Or "Attorney General" Columns	AGENCY DISCRETION TO CONTINUE OPERATIONS	CAN ONLY REMAIN OPEN IF ATTORNEY GENERAL LAWSUIT SUCCESSFUL OR GOVERNOR USES EXECUTIVE AUTHORITY FOR "CRITICAL OPERATIONS" (May be contacted to complete affidavit for legal proceedings.)
			<ul style="list-style-type: none"> <li>Operations identified as "critical" or "agency discretion" can plan on staying open. Others relying on federal arguments or Contract Default should make plans to close and receive notice of ability to remain open June 27-July 1 depending on result of Attorney General Success in Lawsuit.</li> </ul> <p><u>Additional Federal or Contract Arguments That Could Be Raised</u></p>
PUBLIC SAFETY DEPT  Total Employees: 1978	<p>The following portions of your critical operations plan have been approved:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Patrol               <ul style="list-style-type: none"> <li><input type="checkbox"/> Road troopers and selected supervisors</li> <li><input type="checkbox"/> Radio Communications Officers and supervisors</li> <li><input type="checkbox"/> Capitol security- limited to protect state property including executive protection</li> </ul> </li> <li><input type="checkbox"/> Emergency Management               <ul style="list-style-type: none"> <li><input type="checkbox"/> Duty officers</li> <li><input type="checkbox"/> Hazardous materials response</li> </ul> </li> <li><input type="checkbox"/> Fire Marshal/Pipeline Safety               <ul style="list-style-type: none"> <li><input type="checkbox"/> Arson investigation</li> <li><input type="checkbox"/> Hazardous response</li> <li><input type="checkbox"/> Skeleton engineers in pipeline</li> </ul> </li> <li><input type="checkbox"/> BCA               <ul style="list-style-type: none"> <li><input type="checkbox"/> CJIS (no trainers)</li> <li><input type="checkbox"/> Lab</li> <li><input type="checkbox"/> Investigations including communications</li> </ul> </li> <li><input type="checkbox"/> Office of Technology               <ul style="list-style-type: none"> <li><input type="checkbox"/> Voice and data communications</li> <li><input type="checkbox"/> Security</li> <li><input type="checkbox"/> Network operations</li> </ul> </li> </ul> <p>Only staff and operating expenses that are minimally necessary to continue, secure, or support these operations are authorized in the event of a government shut down.</p>		



AGENCY	If do remain open, should make sure that necessary services and capacity are available for business continuation with other agencies with whom may normally coordinate.	CRITICAL OPERATIONS OR OPERATIONS IN DIRECT SUPPORT OF CRITICAL OPERATIONS That May Remain <u>Open</u> (May be contacted to complete affidavit for legal proceedings.)  <u>All Others Closed</u> Unless Listed in "Agency Discretion" or "Attorney General" Columns	AGENCY DISCRETION TO CONTINUE OPERATIONS	CAN ONLY REMAIN OPEN IF ATTORNEY GENERAL LAWSUIT SUCCESSFUL OR GOVERNOR USES EXECUTIVE AUTHORITY FOR "CRITICAL OPERATIONS" (May be contacted to complete affidavit for legal proceedings.)  • If Operations identified as "critical" or "agency discretion" can plan on staying open. Others relying on Federal arguments of Contract Default should make plans to close and receive notice of ability to remain open June 27/July 1 depending on result of Attorney General Success in lawsuit.  <u>Additional Federal for Contract Arguments That Could Be Raised.</u>
PUBLIC UTILITIES COMM		Closed		
Total Employees: 45				
RACING COMMISSION		Closed		
Total Employees: 6				

AGENCY	If do remain open, should make sure that necessary services and capacity are available for business continuation with other agencies with whom may normally coordinate.		
	CRITICAL OPERATIONS OR OPERATIONS IN DIRECT SUPPORT OF CRITICAL OPERATIONS That May Remain <b>Open</b> (May be contacted to complete affidavit for legal proceeding.)  <b>All Others Closed</b> Unless Listed In "Agency Discretion" Or "Attorney General" Columns	AGENCY DISCRETION TO CONTINUE OPERATIONS	CAN ONLY REMAIN OPEN IF ATTORNEY GENERAL LAWSUIT SUCCESSFUL OR GOVERNOR USES EXECUTIVE AUTHORITY FOR "CRITICAL OPERATIONS" (May be contacted to complete affidavit for legal proceedings.)  • Operations identified as "critical" or "agency discretion" can plan on staying open. Others relying on Federal arguments or Contract Default should make plans to close and receive notice of ability to remain open June 27-July 1 depending on result of Attorney General Success in lawsuit.
			Additional Federal or Contract Arguments That Could Be Raised
REVENUE DEPT  Total Employees: 1196	The following portions of your critical operations plan have been approved:  • <input type="checkbox"/> Minimal Activities Associated With Making Deposits: <ul style="list-style-type: none"> <li>• Mail Receiving, Sorting, Depositing of Cash</li> <li>• Electronic Receiving and Depositing of Cash</li> <li>• Deposit Control</li> <li>• Liens and License Release, Collections</li> <li>• Computer Systems Support</li> <li>• Ensure Safety and Security of Staff and Facilities</li> <li>• Reception, Front Door Coordination</li> <li>• Payroll, Receiving, Dockmaster</li> </ul> • <input type="checkbox"/> Minimal Activities Associated with posting to taxpayer accounts.  Only staff and operating expenses that are minimally necessary to continue, secure, or support these operations are authorized in the event of a government shut down.		Minimal activities associated with making local aid payments.  3 FTE @ \$2,801 weekly personnel costs
SENTENCING GUIDELINES COMM  Total Employees: 7	Closed		

AGENCY	If do remain open, should make sure that necessary services and capacity are available for business continuation with other agencies with whom may normally coordinate.		
	CRITICAL OPERATIONS OR OPERATIONS IN DIRECT SUPPORT OF CRITICAL OPERATIONS That May Remain <b>Open</b> (May be contacted to complete affidavit for legal proceeding.)  <b>All Others Closed</b> Unless Listed In "Agency Discretion" Or "Attorney General" Columns	AGENCY DISCRETION TO CONTINUE OPERATIONS	CAN ONLY REMAIN OPEN IF ATTORNEY GENERAL LAWSUIT SUCCESSFUL OR GOVERNOR USES EXECUTIVE AUTHORITY FOR "CRITICAL OPERATIONS" (May be contacted to complete affidavit for legal proceedings.)  Operations identified as "critical" or "agency discretion" can plan on staying open. Others relying on Federal arguments or Contract Default should make plans to close and receive notice of ability to remain open June 27-July 1 depending on result of Attorney General Success in lawsuit.
			<u>Additional Federal or Contract Arguments That Could Be Raised</u>
SOCIAL WORK BOARD  Total Employees: 12	Closed		
TAX COURT Total Employees: 6	Closed		Scheduled trials and pending court matters.
TRADE & ECON DEVELOPMENT DEPT  Total Employees: 259	Closed	With respect to the Public Facilities Authority, since it does not rely on general funds and so long as no or de minimus use of resources of general fund agencies supporting critical operations, the PFA may at its discretion continue operations necessary (i) to meet its obligations to bondholders, and (ii) to meet obligations under any agreements with any Federal agency under which Federal funds are to be or have been received.	Small Cities Development Program Small Business Development Center Program Dislocated Worker Program  DTED has in excess of \$100 million federal dollars awarded to grantees/borrowers. Frequent payment authorizations required to keep existing local unit projects moving. Keeping federal monies available avoids significant negative impact on grantees/borrowers.

AGENCY	If do remain open, should make sure that necessary services and capacity are available for business continuation with other agencies with whom may normally coordinate		
	CRITICAL OPERATIONS OR OPERATIONS IN DIRECT SUPPORT OF CRITICAL OPERATIONS <b>That May Remain Open</b> (May be contacted to complete affidavit for legal proceeding.)  <b>All Others Closed</b> Unless Listed In "Agency Discretion" Or "Attorney General" Columns	AGENCY DISCRETION TO CONTINUE OPERATIONS	CAN ONLY REMAIN OPEN IF ATTORNEY GENERAL LAWSUIT SUCCESSFUL OR GOVERNOR USES EXECUTIVE AUTHORITY FOR "CRITICAL OPERATIONS" (May be contacted to complete affidavit for legal proceedings.)  <input type="checkbox"/> Operations identified as "critical" or "agency discretion" can plan on staying open. Others relying on Federal arguments or Contract Default should make plans to close and receive notice of ability to remain open June 27-July 1 depending on result of Attorney General Success in Lawsuit.  <u>Additional Federal or Contract Arguments That Could Be Raised</u>
TRANSPORTATION DEPT  Total Employees: 5350	The following portions of your critical operations plan have been approved:  <ul style="list-style-type: none"> <li>• <input type="checkbox"/> Provide highway operations and maintenance emergency services affecting the safety of the public:               <ul style="list-style-type: none"> <li>• <input type="checkbox"/> Barricade replacement-repair damaged guardrails or replace any removed construction site barriers</li> </ul> </li> <li>• <input type="checkbox"/> Repair hazardous conditions that occur on the roadways</li> <li>• <input type="checkbox"/> Hazardous material incident response.</li> <li>• <input type="checkbox"/> Assessment of traffic damage to bridges</li> <li>• <input type="checkbox"/> Traffic signal repair</li> <li>• <input type="checkbox"/> Provide computer and communications affecting the State Patrol in shared facilities</li> <li>• <input type="checkbox"/> Provide Gopher One responses.</li> </ul> <p>Only staff and operating expenses that are minimally necessary to continue, secure, or support these operations are authorized in the event of a government shut down.</p>		142 Construction Projects.  -Need 95% of all MnDot Employees.  - \$40 million per week Trunk Highway Funds.




AGENCY	If do remain open, should make sure that necessary services and capacity are available for business continuation with other agencies with whom may normally coordinate.		
	CRITICAL OPERATIONS OR OPERATIONS IN DIRECT SUPPORT OF CRITICAL OPERATIONS <b>That May Remain Open</b> (May be contacted to complete affidavit for legal proceeding.)  <b>All Others Closed</b> Unless Listed In "Agency Discretion" Or "Attorney General" Columns	AGENCY DISCRETION TO CONTINUE OPERATIONS	CAN ONLY REMAIN OPEN IF ATTORNEY GENERAL LAWSUIT SUCCESSFUL OR GOVERNOR USES EXECUTIVE AUTHORITY FOR "CRITICAL OPERATIONS" (May be contacted to complete affidavit for legal proceedings.)  Operations identified as "critical" or "agency discretion" can plan on staying open. Others relying on Federal arguments or Contract Default should make plans to close and receive notice of ability to remain open June 27-July 1 depending on result of Attorney General Success in lawsuit.  <b>Additional Federal or Contract Arguments That Could Be Raised</b>
VETERANS AFFAIRS DEPT  Total Employees: 37	The following portions of your critical operations plan have been approved:  <ul style="list-style-type: none"> <li><input type="checkbox"/> Financial Guardian Program.</li> <li><input type="checkbox"/> Financial Subsistence Payment Program.</li> </ul> Only staff and operating expenses that are minimally necessary to continue, secure, or support these operations are authorized in the event of a government shut down.		
VETERANS HOME BOARD  Total Employees: 1180	The following portions of your critical operations plan have been approved:  <ul style="list-style-type: none"> <li><input type="checkbox"/> Direct Care and Supporting Operations</li> </ul> Only staff and operating expenses that are minimally necessary to continue, secure, or support these operations are authorized in the event of a government shut down.		
VETERINARY MEDICINE BOARD  Total Employees: 2	Closed		
WATER & SOIL RESOURCES BOARD  Total Employees: 72	Closed		

AGENCY	If do remain open, should make sure that necessary services and capacity are available for business continuation with other agencies with whom may normally coordinate		
	CRITICAL OPERATIONS OR OPERATIONS IN DIRECT SUPPORT OF CRITICAL OPERATIONS That May Remain <b>Open</b> (May be contacted to complete affidavit for legal proceeding.)  <b>All Others Closed</b> Unless Listed in "Agency Discretion" Or "Attorney General" Columns	AGENCY DISCRETION TO CONTINUE OPERATIONS	CAN ONLY REMAIN OPEN IF ATTORNEY GENERAL LAWSUIT SUCCESSFUL OR GOVERNOR USES EXECUTIVE AUTHORITY FOR "CRITICAL OPERATIONS" (May be contacted to complete affidavit for legal proceedings)  Operations identified as "critical" or "agency discretion" can plan on staying open. Others relying on Federal arguments or Contract Default should make plans to close and receive notice of ability to remain open June 27-July 1 depending on result of Attorney General Success in Lawsuit.  <u>Additional Federal or Contract Arguments That Could Be Raised</u>
WORKERS COMP COURT OF APPEALS  Total Employees: 15	Closed		
ZOOLOGICAL BOARD/Minnesota Zoo.  Total Employees: 266	The following portions of your critical operations plan have been approved:  • <input type="checkbox"/> Care of live animal collection  Only staff and operating expenses that are minimally necessary to continue, secure, or support these operations are authorized in the event of a government shut down.	Continue entire operation of Zoo using gate receipts until end of August so long as require no or de minimis use of resources of general fund agencies already providing resources to "critical operations".	

JUN 23 2005

STATE OF MINNESOTA

COUNTY OF RAMSEY

By  Deputy

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. C0-05-5928

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

On June 15, 2005, this Court issued an Order to Show Cause setting a hearing date of June 29, 2005 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, 2005. The Order to Show Cause was served on approximately 500 state, county, municipal and school district officials. On June 15, 2005 Governor Tim Pawlenty filed a Motion to Intervene in the proceeding and requested that the hearing be held on June 23, 2005. The Petitioner agreed to move-up the hearing and so notified the 500 public officials as set forth in his Affidavit of Service. At the hearing on June 23, 2005, appearances were made by Attorney General Mike Hatch and by Eric Lipman, Esq., on behalf of Governor Pawlenty. 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. Governor Tim Pawlenty is the Governor of the State of Minnesota. The parties stipulate that Governor Pawlenty may intervene in this matter.

3. The Minnesota Legislature ended its regular session on May 23, 2005 without approving appropriations for many of the executive branch officers and agencies for the fiscal year beginning on July 1, 2005. Exhibit 1 to the Affidavit of Mike Hatch contains a list of those agencies that were not funded. On May 24, 2005, Governor Tim Pawlenty convened the legislature in special session. The special session has not resulted in any appropriations for the remaining executive branch officers and agencies.

4. The Minnesota Constitution entrusts certain core functions to the executive branch of government. Those core functions of executive branch officials and agencies include ensuring compliance with state and federal constitutional rights of citizens and federal mandates.

5. The following Public Officials 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. The agencies headed by these Officials have not been funded by the legislature.

- 1) Gene Hugoson, Department of Agriculture,
- 2) Alice Seagren, Department of Education,
- 3) Glenn Wilson, Department of Commerce,
- 4) Matt Kramer, Department of Employment and Economic Development,

- 5) Dianne Mandernach, Department of Health,
- 6) Kevin Goodno, Department of Human Services,
- 7) Sandy Layman, Iron Range Resources and Rehabilitation Board,
- 8) Scott Brener, Department of Labor and Industry,
- 9) Gene Merriam, Department of Natural Resources,
- 10) Sheryl Corrigan, Minnesota Pollution Control Agency,
- 11) Tim Marx, Housing Finance Agency,
- 12) Michael Campion, Public Safety (partially funded),
- 13) Carol Molnau, Transportation, and
- 14) Peter Bell, Metropolitan Council.

6. In addition to the Public Officials referenced in the preceding paragraph, there are a variety of boards, commissions and the like which act on behalf of state government and perform core functions, and which have not yet been funded.

7. 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.

8. 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, 2005, 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.

9. Examples of the federal programs referenced in paragraph 7 include the following: 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)(9) and (10). The State must also share in the cost of operating each program. *See* 7 U.S.C. § 2025, 42 U.S.C. § 609(a)(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. The Department of Human Services is responsible under state law for administering the state programs relating to each of these three

federal programs. See Minn. Stat. §§ 245.771 (Food Stamp Program); 256J.02 (TANF Program); and 256.01, subd. 2 (Medicaid Program) (2004).

10. Due to the lack of legislative appropriations, many of 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, 2005. Any failure to properly fund core functions of the executive branch may violate the constitutional rights of the citizens of Minnesota.

11. In 2001 Attorney General Mike Hatch petitioned this Court to act to preserve the operation of core functions of the executive branch of government after the Minnesota Legislature had failed to pass a budget funding state government. At that time this Court issued an Order directing that state and local agencies continue to perform the core functions required by the Minnesota and United States Constitutions and by federal law, and that the State continue to pay for such functions performed after July 1, 2001. See *In Re Temporary Funding of Core Functions of the Executive Branch of the State of Minnesota*, Findings of Fact, Conclusions of Law, and Order Granting Motion for Temporary Funding, C9-01-5725 (Ramsey Co. D.Ct., filed June 29, 2001) (attached to Petitioner's Memorandum in Support of Motion for Relief in this matter). In that Order the Court directed state and local agencies to determine what core functions were required to be performed by each. State executive branch agencies made such determinations, and the list of "critical" operations, listed by agency, which were to remain open in the event of a state government shutdown as of July 1, 2001, is contained in Exhibit 2 to the Affidavit of Mike Hatch submitted in support of this Petition.

12. 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.

13. Pursuant to the criteria referenced in paragraph 11 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.

14. The Petitioner, Mike Hatch, has indicated that the State has ample financial 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 (2004) and venue is proper in this Court pursuant to Minn. Stat. § 542.01 (2004).

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, and State Auditor, 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. 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, 2005.

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, the Food Stamp Program, the Temporary Assistance to Needy Families Program, and the Medicaid 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. Core functions also include functions required to be performed by the State under a federal contract or federal law.

### **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. Core functions shall include, but are not limited to, the services set forth in the Core and Critical Functions List attached as Exhibit B to this Order. This Order does not approve or disapprove of the numbers of employees needed to carry out the core functions which are set forth in the List. Rather, State agencies and officials are mandated to employ the number of employees necessary to carry-out the core functions in a timely manner.

3. The Minnesota Commissioner of Finance, Peggy Ingison, 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.

4. 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 Special Master who shall determine whether the Commissioner of Finance should pay for such services.

5. The Honorable Edward Stringer is hereby appointed as 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.

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

- a. July 23, 2005;
- b. The enactment of a budget by the State of Minnesota to fund all of the core functions of government after June 30, 2005; or
- c. Further Order of this Court.

7. 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:

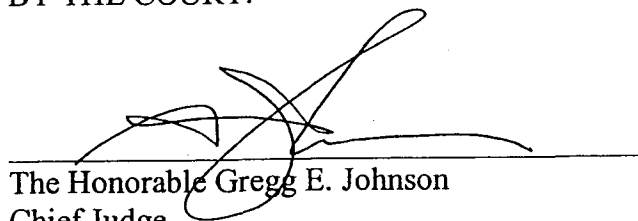
- a. The Honorable Tim Pawlenty, Governor of the State of Minnesota,
- b. The Honorable James Metzen, President of the Minnesota State Senate,
- c. The Honorable Steve Sviggum, Speaker of the Minnesota House of Representatives,
- d. The Honorable Peggy Ingison, Commissioner of Finance, and

e. The Honorable Thomas Heffelfinger, U.S. Attorney for the District of Minnesota.

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

9. On Monday, July 11, 2005, at 9:30 a.m., the parties and Special Master will appear at a case management conference for the purpose of updating the Court as to the status of activities taken pursuant to this Order and the need for any further relief.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'Gregg E. Johnson', is written over a horizontal line. The signature is stylized with a large loop and a long horizontal stroke.

The Honorable Gregg E. Johnson  
Chief Judge  
Ramsey County District Court

Dated this 23 day of  
June, 2005.

AG: #1432476-v1

AGENCY # of current employees	2005 AGENCY SHUT DOWN DETERMINATIONS CRITICAL and/or CORE OPERATIONS OR OPERATIONS IN DIRECT SUPPORT OF CRITICAL and/or CORE OPERATIONS That May Remain <b>Open</b> All Others <b>Closed</b>	# OF NON-CRITICAL / NON-CORE EMPLOYEES
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#### ACCOUNTANCY BOARD

Total Employees: 5

# of employees = 1  
\$1,160 / week personnel costs

4

The following portions of your critical operations plan have been approved:

- Renewal of licenses

Only staff and operating expenses that are **minimally** necessary to continue, secure, or support these operations are authorized in the event of a government shut down.

#### AGRICULTURE DEPT

Total Employees: 500503

# of employees = 87103 + 40 temporary  
\$113,000166,700 / week personnel costs

364318

The following portions of your critical operations plan have been approved:

- Shared Services reduces critical/core employees by 10

- Commercial Feed Regulation
- Agricultural Chemical Emergency Response
- Food Inspection
- Dairy Inspection
- Food Safety Emergency & Food Re-inspection
- State Meat Inspection
- Laboratory Services
  - Agronomy Analysis/Ag Chemical Emergency Response
  - Food Safety Emergencies/Dairy and Food Inspection Services
  - Monitoring and Regulatory Analysis to State Meat Inspection Program
  - Regulatory Analysis for Commercial Feed
- Nuclear Response
- Biological Control Program
- Monitor and control invasive species of exotic plant diseases and pests
- Soybean Rust
- MDA Lab & Bldg. Construction
- Core administrative support, including payroll processing

Only staff and operating expenses that are **minimally** necessary to continue, secure, or support these operations are authorized in the event of a government shut down.

Portions or all of this agency use non-appropriated funds as revenue source:

# of employees = 42

- Farmers Market Nutrition Program
- Grain Inspection
- Seed Potato Inspection
- Grain Licensing and Auditing Program
- Livestock Weighing
- Fruit and Vegetable Inspection

#### ANIMAL HEALTH BOARD

Total Employees: 3637

# of employees = 4  
\$6,983 / week personnel costs

3233

The following portions of your critical operations plan have been approved:

- Investigate suspect rabies cases; and,
- Investigate suspect foreign animal disease cases.

Only staff and operating expenses that are **minimally** necessary to continue, secure, or support these operations are authorized in the event of a government shut down.

2005 AGENCY SHUT DOWN DETERMINATIONS		
AGENCY # of current employees	CRITICAL and/or CORE OPERATIONS OR OPERATIONS IN DIRECT SUPPORT OF CRITICAL and/or CORE OPERATIONS That May Remain <b>Open</b>  All Others <b>Closed</b>	# OF NON- CRITICAL / NON-CORE EMPLOYEES

ARCHITECTURE, ENGINEERING BD  Total Employees: <u>925</u>	# of employees = 1 \$1,160 / week personnel costs  The following portions of your critical operations plan have been approved:  <ul style="list-style-type: none"> <li>• Renewal of licenses</li> </ul> Only staff and operating expenses that are <b>minimally</b> necessary to continue, secure, or support these operations are authorized in the event of a government shut down.	<u>824</u>
ARTS BOARD  Total Employees: 13	Closed	13
BARBER AND COSMETOLOGY EXAMINERS BOARD  Total Employees: 6	Closed	6
BEHAVIORAL HEALTH & THERAPY BOARD  Total employees: <u>53</u>	# of employees = 2 \$2,320 / week personnel costs  The following portions of your critical operations plan have been approved:  <ul style="list-style-type: none"> <li>• Renewal of licenses</li> </ul> Only staff and operating expenses that are <b>minimally</b> necessary to continue, secure, or support these operations are authorized in the event of a government shut down.	<u>31</u>
CENTER FOR ARTS EDUCATION  Total Employees: <u>9395</u>	# of employees = 2 \$2,320 / week personnel costs  The following portions of your critical operations plan have been approved:  <ul style="list-style-type: none"> <li>• Property Security</li> </ul> Only staff and operating expenses that are <b>minimally</b> necessary to continue, secure, or support these operations are authorized in the event of a government shut down.	<u>9493</u>
CHIROPRACTIC EXAMINERS BOARD  Total Employees: 5	# of employees = 1 \$1,160 / week personnel costs  The following portions of your critical operations plan have been approved:  <ul style="list-style-type: none"> <li>• Renewal of licenses</li> </ul> Only staff and operating expenses that are <b>minimally</b> necessary to continue, secure, or support these operations are authorized in the event of a government shut down.	4

2005 AGENCY SHUT-DOWN DETERMINATIONS		
AGENCY # of current employees	CRITICAL and/or CORE OPERATIONS OR OPERATIONS IN DIRECT SUPPORT OF CRITICAL and/or CORE OPERATIONS	# OF NON-CRITICAL / NON-CORE EMPLOYEES
	That May Remain <b>Open</b> All Others <b>Closed</b>	

<b>COMMERCE DEPT</b> <b>Total Employees: 328313</b>	# of employees = 5 \$7,610 / week personnel costs  The following portions of your critical operations plan have been approved: <ul style="list-style-type: none"> <li>• Pre-payment for the Minnesota Message Relay Service</li> <li>• Preserve state's interest in pending litigation and on-going regulatory investigations</li> <li>• On-call payroll processing and IT system support</li> </ul> Current licenses remain in effect if renewal applications are submitted to the Department of Commerce by 6/30/05 or the appropriate renewal deadline. Only staff and operating expenses that are <b>minimally</b> necessary to continue, secure, or support these operations are authorized in the event of a government shut down.	323308
<b>DENTISTRY BOARD</b> <b>Total Employees: 11</b>	# of employees = 4 \$4,640 / week personnel costs  The following portions of your critical operations plan have been approved: <ul style="list-style-type: none"> <li>• Respond to complaints about dental professionals</li> <li>• Issue disciplinary actions</li> <li>• Renewal <u>and issuance</u> of licenses</li> </ul> Only staff and operating expenses that are <b>minimally</b> necessary to continue, secure, or support these operations are authorized in the event of a government shut down.	7
<b>DIETETICS &amp; NUTRITION PRACTICE</b> <b>Total Employees: 2</b>	Closed	2
<b>DISABILITY COUNCIL</b> <b>Total Employees: 67</b>	Closed	67

2005 AGENCY SHUT DOWN DETERMINATIONS		
AGENCY # of current employees	CRITICAL and/or CORE OPERATIONS OR OPERATIONS IN DIRECT SUPPORT OF CRITICAL and/or CORE OPERATIONS	# OF NON- CRITICAL/ NON-CORE EMPLOYEES
	That May Remain <b>Open</b>  All Others <b>Closed</b>	

#### EDUCATION

Total Employees: 422431

# of employees = 28,529.5  
\$33,230,34,395 / week personnel costs

393.5401.5

The following portions of your critical operations plan have been approved:

- Maltreatment of Minors Program
- Support operations to critical functions, including on-call payroll processing
- Administrative Management and Communications
- Protection of state buildings and other property owned by the government
- Critical State Categorical and Formula Aids
  - ✓ General Education aid, including all linkages to the formula (compensatory, limited English proficiency, extended sparsity, operating capital, training and experience, equity, transition and referendum aid)
  - ✓ Special education-regular and excess
  - ✓ Head Start funding consistent with CAP critical services programs at the Department of Human Services
  - ✓ Cost aid transition for disabled students aid; aid for children with disabilities
  - ✓ Tribal contract aid
  - ✓ Migrant Head Start Program
  - ✓ Alternative teacher compensation aid
  - ✓ Charter school building lease aid
  - ✓ School lunch aid; school breakfast aid
  - ✓ Adults with disabilities aid
- Critical Federal Formula Aids
  - ✓ Special Education Formula Aid; Special Education Pre-school Formula Aid
  - ✓ Special Education Grants for Infants and Families with Disability
  - ✓ Title I Formula Aid
  - ✓ Title I Program for Neglected and Delinquent
  - ✓ Title II – Part A Improving Teacher Quality and Teacher Quality Enhancement
  - ✓ Title II – Education Technology Grants Formula Grants
  - ✓ Title V Formula Aid
  - ✓ Federal Food Program Breakfast; Federal Food Program Lunch; Federal Food Program Special Milk
  - ✓ CACFP Food Service; CACFP Commodities
  - ✓ Summer Food Program for Children
  - ✓ Migrant Educational Grants
- No Child Left Behind (NCLB)
- Teacher and Administrator Licensing

Only staff and operating expenses that are **minimally** necessary to continue, secure, or support this operation is authorized in the event of a government shut down.

#### EMERGENCY MEDICAL SERVICES BD

Total Employees: 2322

# of employees = 7  
\$8,120 / week personnel costs

4615

The following portions of your critical operations plan have been approved:

- Ensuring ambulance coverage in the area of disaster declared by Governor's emergency management response team (On-call only)
- Toxicology line
- Receive, investigate, and resolve complaints from public
- Monitor health professionals in HPSP program
- Renewal of licenses

Only staff and operating expenses that are **minimally** necessary to continue, secure, or support these operations are authorized in the event of a government shut down.



2005 AGENCY SHUT DOWN DETERMINATIONS		
AGENCY # of current employees	CRITICAL and/or CORE OPERATIONS OR OPERATIONS IN DIRECT SUPPORT OF CRITICAL and/or CORE OPERATIONS That May Remain <b>Open</b>  <b>All Others Closed</b>	# OF NON- CRITICAL / NON-CORE EMPLOYEES

EMPLOYMENT & ECONOMIC DEVELOPMENT (DEED)	# of employees = <u>64211</u> \$99,840 <u>329,160</u> / week personnel costs	1629 <u>1454</u>
Total Employees: <u>46931665</u>	<p>The following portions of your critical operations plan have been approved:</p> <ul style="list-style-type: none"> <li>• Unemployment Insurance Benefit Payments and Initial Claims</li> <li>• Process claims for social security disability payments</li> <li>• Public Facilities Authority bond obligation on-call services</li> <li>• Business and Community Development Projects (on-call technical assistance)</li> <li>• On-call payroll processing</li> </ul> <p>Only staff and operating expenses that are <b>minimally</b> necessary to continue, secure, or support these operations are authorized in the event of a government shut down.</p>	
ENVIRONMENTAL ASSISTANCE	Closed	<u>6361</u>
Total Employees: <u>6361</u>		
EXPLORE MINNESOTA TOURISM	Closed	<u>5960</u>
Total Employees: <u>5960</u>		
FARIBAULT ACADEMIES	# of employees = <u>56100</u> \$60,000 <u>107,100</u> / week personnel costs	244 <u>167</u>
Total Employees: 267	<p>The following portions of your critical operations plan have been approved:</p> <ul style="list-style-type: none"> <li>• Security personnel necessary to provide 24/7 coverage of two sites (16 state buildings) and 60+ acres of government land at an estimated value of \$80-\$100 million.</li> <li>• Continuation of July 5-22, 2005 Preparatory Assistance Summer School (PASS) at both the Academy for the Deaf and the Academy for the Blind required under Federal Law 94-142 and Minnesota Statute 125A, Individual Disability Education Act (IDEA).</li> </ul> <p>Only staff and operating expenses that are <b>minimally</b> necessary to continue, secure, or support these operations are authorized in the event of a government shut down.</p>	

2005 AGENCY SHOWN DETERMINATIONS		
AGENCY # of current employees	CRITICAL and/or CORE OPERATIONS OR OPERATIONS IN DIRECT SUPPORT OF CRITICAL and/or CORE OPERATIONS	# OF NON- CRITICAL / NON-CORE EMPLOYEES
	That May Remain <u>Open</u> <u>All Others Closed</u>	

| HEALTH DEPT

# of employees = 209  
\$ 342,750 / week personnel costs

44831178

| Total Employees: 43921387

The following portions of your critical operations plan have been approved:

- Investigate and respond to Disease Outbreaks
- Core Public Health Laboratory Capacity
- Health Facilities Complaint Investigation
- Safeguard Public Health Data
- Emergency Response to biological / chemical / radiological / nuclear and other public health emergencies
- Public Health Management & Communications
- Facility Security
- Health and safety inspections of nursing homes, hospitals, and home health care facilities
- Food inspection and food safety or security
- Inspections of municipal water supply systems, swimming pools, water well drillers
- Routine and non-emergency disease outbreak and intervention activities
- All health occupations licensing and inspection activities
- Issuance of birth and death certificates
- WIC (Women, Infants and Children) Program
- MDH building construction - project management
- Administrative support, including payroll processing

Only staff and operating expenses that are **minimally** necessary to continue, secure, or support these operations are authorized in the event of a government shut down.

| HOUSING FINANCE AGENCY

# of employees = 485186

0

| Total Employees: 485186

Portions or all of this agency use statutorily appropriated funds as revenue source:

- All Functions

<div>AGENCY</div> <div># of current employees</div>	<div>2005 AGENCY SH</div> <div>OWN DETERMINATIONS</div> <div>CRITICAL and/or CORE OPERATIONS OR OPERATIONS IN DIRECT SUPPORT OF CRITICAL and/or CORE OPERATIONS</div> <div>That May Remain <b>Open</b></div> <div>All Others <u>Closed</u></div>	<div># OF NON-CRITICAL / NON-CORE EMPLOYEES</div>
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HUMAN SERVICES DEPT

# of employees = 4080  
\$5 million / week payroll  
\$117 million / week benefits

27682862

Total Employees: 68486942

The following portions of your critical operations plan have been approved:

- State Operated Services inpatient and outpatient treatment for mentally ill (MI), chemically dependent (CD), psychopathic personalities (PP), Minnesota Extended Treatment Options (METO) & nursing home; residential services for persons with developmental disabilities (DD); day training and habilitation (DT&H) programs; mental health initiative (MHI); medication administration; MHI – crisis response teams; and DD Community Support Services (CSS); in home support staff; and DD CSS limited triage staff to respond to DD crisis.
- State operated services system-wide support and oversight for client treatment services.
- Cash, child care and food assistance to families & individuals. Monthly and daily issuance for cash & food.
- Child Support Payments: receipt and disbursement; PRISM maintenance and operation for county Child Support agencies.
- Adoption Assistance Payments/Relative Custody Assistance
- Health care - Medical Assistance, General Assistance Medical Care, & Minnesota Care
- Payments to the following MA providers: personal care attendants (PCAs), private duty nursing services; home health agencies; special transportation providers, pharmacy services; waiver services, including CAC, CADI, MR/RC, TBI, Elderly and Alternative Care; day training and habilitation (DT&H); nursing homes (SNF/ICF); volume purchasing for oxygen; children's therapeutic support services (CTSS); adult residential mental health services (ARMHS); mental health crisis services; intensive residential treatment services (IRTS); Rural Health clinics; Indian Health Services and tribal providers; and Federally Qualified Health Clinics.
- Processing premium payments for MinnesotaCare enrollees.
- HIV/AIDS program.
- Senior nutrition and home delivered meals.
- Ombudsman for Older MN.
- Guardianship Services.
- Maintain State-wide Social Service Information System Health Network support to county servers.
- Commodity Distribution via TEFAP (The Emergency Food Assistance Program and USDA).
- MA/EPD approval for late payments requests for good cause.
- Approval of Nursing Home Admissions for persons under 21.
- Approval of OBRA Level 1 and 2 Nursing Home Admission Screening Documents. Transitional Housing and Emergency Services Program
- Community Action and Community Services Block Grants
- Deaf blind support services, intervenor and independent living services for adult deaf blind
- Residential and community mental health services for deaf, deaf blind, and hard of hearing
- Services for Deaf and Hard of Hearing
- Applicant background checks for persons working in programs licensed by DHS and
- MDH DHS Building Construction-Project Management / Converged Network Development
- Findings issued in Special Review Board Hearings already held

Only staff and operating expenses that are **minimally** necessary to continue, secure, or support these operations are authorized in the event of a government shut down.

Portions or all of this agency use statutorily appropriated funds as revenue source:

- State Operated Services—Outside Laundry Contracts

<div>AGENCY</div> <div># of current employees</div>	<div>2005 AGENCY SH. OWN DETERMINATIONS</div> <div>CRITICAL and/or CORE OPERATIONS OR OPERATIONS IN DIRECT SUPPORT OF CRITICAL and/or CORE OPERATIONS</div> <div>That May Remain <b>Open</b></div> <div>All Others <b>Closed</b></div>	<div># OF NON-CRITICAL / NON-CORE EMPLOYEES</div>
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IRON RANGE RESOURCES & REHAB

# of employees = 43597

0

Total Employees: 43597

Portions or all of this agency use statutorily appropriated funds as revenue source:

- All Functions

LABOR AND INDUSTRY DEPT

# of employees = 3957

334379

Total Employees: 373449

\$68,25099,750 / week personnel costs

The following portions of your critical operations plan have been approved:

- Shared services reduce critical/core employees by 5

- Limited Workplace Safety/Health Regulation-Response to fatalities, imminent danger and catastrophic workplace events.
- Boiler Vessel & High Pressure Piping - Routine inspections and inspections of system failures causing fatal or imminent danger and continued licensing of operators
- Child Labor Regulation
- Benefit Payments to Injured Workers
- Routine electrical inspections, carnival events, and license renewals for current electricians (Board of Electricity)
- Elevator Inspections on-call for accidents
- Plumbing inspections on new and remodeled construction projects
- Plumber license renewals
- DLI Central and Technology Services, including payroll processing

Only staff and operating expenses that are **minimally** necessary to continue, secure, or support these operations are authorized in the event of a government shut down.

Portions or all of this agency use non-appropriated funds as revenue source:

# of employees = 313

- Building codes and standards inspections of elevators, manufactured homes, and building inspections on projects located throughout the state, as well as plan review.

MARRIAGE & FAMILY THERAPY BD

# of employees = 1

1

Total Employees: 2

\$1,160 / week personnel costs

The following portions of your critical operations plan have been approved:

- Renewal of licenses

Only staff and operating expenses that are **minimally** necessary to continue, secure, or support these operations are authorized in the event of a government shut down.

MEDIATION SERVICES DEPT

Closed

4615

Total Employees: 4615

AGENCY  # of current employees	2005 AGENCY SHUT-DOWN DETERMINATIONS  CRITICAL and/or CORE OPERATIONS OR OPERATIONS IN DIRECT SUPPORT OF CRITICAL and/or CORE OPERATIONS  That May Remain <b>Open</b>  All Others <b>Closed</b>	# OF NON- CRITICAL / NON-CORE EMPLOYEES
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MEDICAL PRACTICE BOARD

# of employees = 7  
\$7,500 / week personnel costs

1615

Total Employees: 2322

The following portions of your critical operations plan have been approved:

- Processing and investigating complaints against physicians and other health care providers alleging unsafe or illegal health care practices.
- Issuing new licenses and permits to physicians and other regulated health care providers.
- Renewal of licenses and registrations to physicians and other health care providers in order that they may continue to practice medicine legally.

Only staff and operating expenses that are **minimally** necessary to continue, secure, or support these operations are authorized in the event of a government shut down.

METROPOLITAN COUNCIL TRANSIT

# of employees = 3,660

0

The following portions of your critical operations plan have been approved:

- Metro Mobility
- Metro Transit services (one month only)
- Contracted regular routes (one month only)

Portions or all of this agency use other funds as revenue source:

- Metro-Mobility
- Metro-Transit services (one month only)
- Contracted regular routes (one month only)
- Community Programs
- Opt-Out Community Services

NATURAL RESOURCES DEPT

# of employees = 211  
\$245,000 / week personnel costs

22632810

Total Employees: 24743021

The following portions of your critical operations plan have been approved:

- Provide law enforcement, public safety, and safety training
  - Enforce hunting, Off-Highway (OHV) vehicle and watercraft laws
  - Wetlands law enforcement
  - Firearms and vehicle safety training
- Fire Suppression
- Flood and Dam Safety Response
- Hazmat Response
- Fish Hatchery-Custodial, to keep hatchery fish alive
- Tree Nursery-Custodial, to water nursery trees to keep them alive
- On-call payroll services

Note: Others (up to 75) may be added in event of emergencies such as fire, flood, tornado, etc.

Only staff and operating expenses that are **minimally** necessary to continue, secure, or support these operations are authorized in the event of a government shut down.

AGENCY # of current employees	2005 AGENCY SHOWN DETERMINATIONS CRITICAL and/or CORE OPERATIONS OR OPERATIONS IN DIRECT SUPPORT OF CRITICAL and/or CORE OPERATIONS That May Remain <b>Open</b> All Others <b>Closed</b>	# OF NON-CRITICAL / NON-CORE EMPLOYEES
----------------------------------	---	--

NURSING BOARD  
Total Employees: 2527

# of employees = 6  
\$4,800 / week personnel costs

1921

The following portions of your critical operations plan have been approved:

- Processing complaints alleging unsafe nursing practices.
- Issuing of licenses/temporary permits to practice nursing
- Renewal of licensure

Only staff and operating expenses that are **minimally** necessary to continue, secure, or support these operations are authorized in the event of a government shut down.

NURSING HOME ADMIN BD  
Total Employees: 2

# of employees = 1 \* = 2  
\$3,480 / week personnel costs

1

The following portions of your critical operations plan have been approved:

- Investigate complaints
- Take disciplinary action
- Issue and renewal of licenses

\* NHAB administers IT, HR, and payroll services for 15 health related boards.

Only staff and operating expenses that are **minimally** necessary to continue, secure, or support these operations are authorized in the event of a government shut down.

OMBUDSMAN MH/MR  
Total Employees: 1819

# of employees = 416  
\$4,640 18,320 / week personnel costs

143

The following portions of your critical operations plan have been approved:

- Individual Client Services/Investigations or Reviews
- Death and Serious Injury Review

Only staff and operating expenses that are **minimally** necessary to continue, secure, or support these operations are authorized in the event of a government shut down.

OMBUDSPERSON FOR FAMILIES  
Total Employees: 34

Closed

34

OPTOMETRY BOARD  
Total Employees: 2

# of employees = 1  
\$1,160 / week personnel costs

1

The following portions of your critical operations plan have been approved:

- Investigate complaints regarding optometrists

Only staff and operating expenses that are **minimally** necessary to continue, secure, or support these operations are authorized in the event of a government shut down.

2005 AGENCY SHUT DOWN DETERMINATIONS		
AGENCY	CRITICAL and/or CORE OPERATIONS OR OPERATIONS IN DIRECT SUPPORT OF CRITICAL and/or CORE OPERATIONS	# OF NON-CRITICAL / NON-CORE EMPLOYEES
# of current employees	That May Remain <b>Open</b>  All Others <b>Closed</b>	

#### PHARMACY BOARD

# of employees = 6  
\$6,960 / week personnel costs

10

Total Employees: 16

The following portions of your critical operations plan have been approved:

- Investigate complaints
- Renewal of licenses
- Inspect pharmacies, wholesalers, certain researchers

Only staff and operating expenses that are **minimally** necessary to continue, secure, or support these operations are authorized in the event of a government shut down.

#### PHYSICAL THERAPY BOARD

Closed

2

Total Employees: 2

#### PODIATRIC MEDICINE BOARD

# of employees = .5  
\$580 / week personnel costs

.5

Total Employees: 1

The following portions of your critical operations plan have been approved:

- Renewal of licenses

Only staff and operating expenses that are **minimally** necessary to continue, secure, or support these operations are authorized in the event of a government shut down.

#### POLLUTION CONTROL AGENCY

# of employees = 26  
\$52,000 / week personnel costs

748749

Total Employees: 774775

The following portions of your critical operations plan have been approved:

- Emergency Response Remediation
- Maintenance and monitoring of ongoing remedial systems at state owned closed landfills, LUST fund financed sites, and Superfund sites
- Air quality monitoring and air quality health alerts
- Training and licensing of environmental professionals
- On-call payroll services

Only staff and operating expenses that are **minimally** necessary to continue, secure, or support these operations are authorized in the event of a government shut down.

#### PSYCHOLOGY BOARD

# of employees = 34  
\$3,4804,640 / week personnel costs

65

Total Employees: 9

The following portions of your critical operations plan have been approved:

- Renewal of licenses
- Complaint investigations

Only staff and operating expenses that are **minimally** necessary to continue, secure, or support these operations are authorized in the event of a government shut down.



2005 AGENCY SHUT DOWN DETERMINATIONS		
AGENCY  # of current employees	CRITICAL and/or CORE OPERATIONS OR OPERATIONS IN DIRECT SUPPORT OF CRITICAL and/or CORE OPERATIONS	# OF NON- CRITICAL / NON-CORE EMPLOYEES
	That May Remain <u>Open</u>  All Others <u>Closed</u>	

| PUBLIC SAFETY DEPT

# of employees = 712

803745

| Total Employees: 45451457

\$830,190 / week personnel costs

The following portions of your critical operations plan have been approved:

- State Patrol
  - All road troopers and selected supervisors
  - All Radio Communications Officers and supervisors
  - Capitol Security
  - Investigate all highway crashes and fatalities
  - Enforcement of commercial vehicles
  - School bus safety equipment and driver inspections
  - Weigh scales will be open
  - Flight or air support provided to local police agencies
  - Special response team will support local police agencies
  - Motor vehicle crash reports remain available
- Pipeline Safety
  - Investigation and oversight of gas and hazardous liquids
  - Hazardous response
  - Federal inspection and infrastructure security
- Driver and Vehicle Services
  - Driver's license renewals and duplicates
  - Commercial driver renewals and HazMat endorsements
  - Perform status checks for extensions for temporary residents
  - Driver evaluation hearings to meet due process requirements
  - Inspection of licensed motor vehicle dealers
- Administrative support for IT, payroll processing and communications
- Commissioner/State Homeland Security Director

Only staff and operating expenses that are **minimally** necessary to continue, secure, or support these operations are authorized in the event of a government shut down.

| PUBLIC UTILITIES COMM

Closed

4440

| Total Employees: 4440

SOCIAL WORK BOARD

# of employees = 2

8

Total Employees: 10

\$2,320 / week personnel costs

The following portions of your critical operations plan have been approved:

- Renewal of licenses

Only staff and operating expenses that are **minimally** necessary to continue, secure, or support these operations are authorized in the event of a government shut down.

AGENCY # of current employees	2005 AGENCY SHOWN DETERMINATIONS CRITICAL and/or CORE OPERATIONS OR OPERATIONS IN DIRECT SUPPORT OF CRITICAL and/or CORE OPERATIONS That May Remain <b>Open</b> All Others <b>Closed</b>	# OF NON-CRITICAL / NON-CORE EMPLOYEES
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TRANSPORTATION DEPT

# of employees: 864

39873964

Total Employees: 48514828

\$1.35 million / week personnel costs

The following portions of your critical operations plan have been approved:

- Provide highway operations and maintenance emergency services affecting the safety of the public:
  - Barricade replacement
  - Repair damaged guardrails or replace any removed construction site barriers
  - Repair hazardous conditions on roadways (pavement blow-ups, obstructions, wash-outs, etc.)
  - Traffic signal repair, stop and yield sign replacement
- Continuation of active (200) construction projects
- Hazardous Material Incident Response
- Stillwater Lift Bridge operation
- Continue ramp meters and MnPASS Hot Lane operations
- Assessment of traffic damage to bridges
- Maintain aeronautic navigation systems
- Maintain pilot weather information systems
- Provide computer and communications affecting the State Patrol in shared facilities
- Provide Gopher One responses
- Provide essential department leadership and management, communications, and support services
- Continue to process payment for active county/municipal state aid projects; critical project plan review

Only staff and operating expenses that are **minimally** necessary to continue, secure, or support these operations are authorized in the event of a government shut down.

VETERANS HOME BOARD

# of employees = 8741057

1750

Total Employees: 40491057

\$961,000 / week personnel costs (874 FTE)

The following portions of your critical operations plan have been approved:

- Direct Care and Supporting Operations

Only staff and operating expenses that are **minimally** necessary to continue, secure, or support these operations are authorized in the event of a government shut down.

VETERINARY MEDICINE BD

Closed

20

Total Employees: 2

# of employees = 2

\$1,580 / week personnel costs

The following portions of your critical operations plan have been approved:

- Oversight of licensed veterinarians regarding compliance with state/federal laws regulating prescribing/dispensing of prescription drugs for use in food animals and the prescribing/dispensing of controlled substances to all animals.
- Responding to allegations of licensees practicing veterinary medicine while impaired.
- In the event of natural disaster, foreign animal disease outbreak (foot and mouth), bioterrorism event or zoonotic disease outbreak (Salmonella or Monkey Pox), veterinarian credentialing and licensing to practice veterinary medicine in Minnesota.

Only staff and operating expenses that are **minimally** necessary to continue, secure, or support these operations are authorized in the event of a government shut down.

2005 AGENCY SH		OWN DETERMINATIONS
AGENCY	CRITICAL and/or CORE OPERATIONS OR OPERATIONS IN DIRECT SUPPORT OF CRITICAL and/or CORE OPERATIONS	# OF NON-CRITICAL / NON-CORE EMPLOYEES
# of current employees	That May Remain <b>Open</b>  All Others Closed	

WATER & SOIL RESOURCES BOARD	Closed	5957
Total Employees: 5957		
WORKERS COMP COURT OF APPEALS	Closed	15
Total Employees: 15		
ZOOLOGICAL BOARD/Minnesota Zoo	# of employees = 222271	0
Total Employees: 222271	Portions or all of this agency use other funds as revenue source:	
	• All Functions	

STATE OF MINNESOTA

JUN 30 2005

DISTRICT COURT

COUNTY OF RAMSEY

By    JH    Deputy

SECOND JUDICIAL DISTRICT

Case Type: Civil

Court File No. C0-05-5928

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

**ORDER GRANTING  
MOTION FOR FUNDING  
SUBJECT TO MODIFICATION**  
(June 30, 2005 - II)

On June 23, 2005, Chief Judge Gregg E. Johnson heard oral argument upon the Motion of Petitioner Mike Hatch, Attorney General of the State of Minnesota, and the Motion to Intervene by Governor Tim Pawlenty and following said hearing, the court issued its Findings of Fact, Conclusions of Law, and Order Granting Motion for Temporary Funding.

In its Findings of Fact, Conclusions of Law, and Order Granting Motion for Temporary Funding dated June 23, 2005, the Court appointed Justice Edward C. Stringer as Special Master to mediate, hear and make recommendations to the Court with respect to issues regarding compliance with the terms of its Order. On Monday, June 27, 2005 and Tuesday, June 28, 2005, Justice Stringer conducted hearings regarding Petitioners seeking state funding as providers of core services of government.

The Court accepts and adopts the findings of the Special Master subject to modification pursuant to Rule 53.05(b) with respect to the request(s) of government office(s) and petitions brought by programs (hereinafter listed):

1. Petition No. 101, Petition of Minnesota Association of Community Mental Health Programs, Inc. No action required.
2. Petition No. 102, Petition of Prevent Child Abuse Minnesota. No action required.
3. Petition No. 103, Petition of Minnesota AIDS Project. GRANTED.
4. Petition No. 104, Petition of Hired. DENIED.
5. Petition No. 105, Petition of Minnesota Council of Nonprofits. No action required.
6. Petition No. 106, Petition of Lutheran Social Services of Minnesota. GRANTED.
7. Petition No. 107, Petition of Joe Pazandak. No action required.
8. Petition No. 115, Petition of Pillsbury United Communities. DENIED in part. Special master will reconsider three programs on July 1, 2005.
9. Petition No. 116, Petition of Pediatric home Services. GRANTED.
10. Petition No. 117, Petition of Minnesota Law Enforcement. GRANTED.
11. Petition No. 119, Petition of Metro Transit. GRANTED.
12. Petition No. 120, Petition of Department of Natural Resources and University of Minnesota Regarding Minos Project. GRANTED.
13. Request of Governor's Office for Relief Relative to Statutory and Contractual Considerations. GRANTED.

### **ORDER**

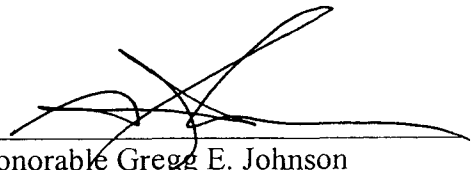
1. Petitions 101, 102, 105, 107 require no action.
2. Petitions 103, 106, 116, 117, 119, 120 are deemed core functions of government within the State of Minnesota and, therefore, are granted.

3. Petition 104 is denied and not deemed to be a core function of government within the State of Minnesota.

4. Petition 115 is denied in part. The Special Master will reconsider three programs on July 1, 2005.

5. Request of Governor's office for relief relative to statutory and contractual considerations is granted.

BY THE COURT:



The Honorable Gregg E. Johnson  
Chief Judge  
Ramsey County District Court

Dated this 30<sup>th</sup> day of June, 2005.

6  
STATE OF MINNESOTA  
COUNTY OF RAMSEY

FILED  
Court Administrator

JUN 30 2005

By                      Deputy

DISTRICT COURT  
SECOND JUDICIAL DISTRICT  
Case Type: Civil

Court File No. C0-05-5928

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

**FINDINGS OF FACT  
CONCLUSIONS OF LAW AND  
ORDER FOR CLARIFICATION  
OF THE JUNE 23, 2005 ORDER  
(June 30, 2005 - IV)**

On June 29, 2005, a hearing was brought before Chief Judge Gregg E. Johnson pursuant to Rule 19.01, upon a request by the Attorney General for enforcement of the Court's Order of June 23, 2005. Further hearing, including oral argument and testimony, was conducted June 30, 2005.

At the hearing June 29, 2005, Kristine L. Eiden, Chief Deputy Attorney General, was present. Eric L. Lipman, Esq., Acting General Counsel to the Office of the Governor, was present. At the hearing June 30, 2005, Eric L. Lipman, Esq., Acting General Counsel, appeared as counsel on behalf of the Office of the Governor, requesting reconsideration of the Court's Order of June 23, 2005, and particularly enforcement of payments to recipients of Medical Assistance, General Assistance Medical Care and MinnesotaCare as a core function of government in the State of Minnesota. Michael Hatch, Attorney General, Kristine L. Eiden, Chief Deputy Attorney General, and Kenneth Peterson, First Deputy Attorney General, appeared in support of the enforcement of the Court's Order of June 23, 2005, and particularly, for continuing payments to recipients of



Medical Assistance, General Assistance Medical Care and MinnesotaCare as a core function of government in the State of Minnesota.

### **FINDINGS OF FACT**

1. On June 15, 2005, the Department of Human Services sent notice to recipients of Medical Assistance, General Assistance Medical Care and MinnesotaCare that their medical care may be interrupted as a result of a government shutdown.

2. As a part of this Court's Order filed June 23, 2005, recipients of Medical Assistance, General Assistance Medical Care and MinnesotaCare would continue to receive assistance as a core function of government.

3. Despite the lack of a state budget agreement, the state of Minnesota continues to generate revenue.

### **CONCLUSIONS OF LAW**

1. That the Order of June 23 directed that state agencies and officials, municipal entities and school districts shall continue to perform core functions of government as required by the State Constitution.

2. That the core functions of government include matters relating to the life, health and safety of Minnesota citizens and the maintenance and preservation of public property. Core functions also include functions required to be performed by the state under a federal contract or federal law.

3. That the provision of health care for the state of Minnesota's most vulnerable citizens is a core function of government and must be funded.

4. That in the event of a government shutdown, the services of the Minnesota Department of Human Services and, specifically, Medical Assistance, General Assistance

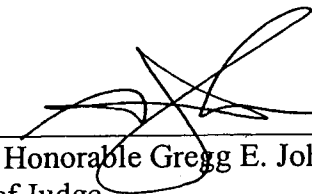
Medical Care and MinnesotaCare, are deemed to be a core function of government in the State of Minnesota.

5. That the Commissioner for the Minnesota Department of Human Services shall notice all recipients of Medical Assistance, General Assistance Medical Care and MinnesotaCare that, in the event of a government shutdown, payments to recipients will continue as a core function of government in the State of Minnesota.

**ORDER**

It is hereby ordered that all payments for Medical Assistance, General Assistance Medical Care and MinnesotaCare be funded as a core function of government.

BY THE COURT:

  
\_\_\_\_\_  
The Honorable Gregg E. Johnson  
Chief Judge  
Ramsey County District Court

Dated this 30<sup>th</sup> day of June, 2005.

JUL 07 2005

STATE OF MINNESOTA  
COUNTY OF RAMSEY

By JLL Deputy

DISTRICT COURT  
SECOND JUDICIAL DISTRICT

Case Type: Civil

Court File No. C0-05-5928

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

**ORDER GRANTING  
MOTION FOR FUNDING  
SUBJECT TO MODIFICATION**  
(July 7, 2005 - V)

On June 23, 2005, Chief Judge Gregg E. Johnson heard oral argument upon the Motion of Petitioner Mike Hatch, Attorney General of the State of Minnesota, and the Motion to Intervene by Governor Tim Pawlenty and following said hearing, the court issued its Findings of Fact, Conclusions of Law, and Order Granting Motion for Temporary Funding.

In its Findings of Fact, Conclusions of Law, and Order Granting Motion for Temporary Funding dated June 23, 2005, the Court appointed Justice Edward C. Stringer as Special Master to mediate, hear and make recommendations to the Court with respect to issues regarding compliance with the terms of its Order. On Tuesday, July 5, 2005, Justice Stringer conducted hearings regarding Petitioners seeking state funding as providers of core services of government.

The Court accepts and adopts the findings of the Special Master subject to modification pursuant to Rule 53.05(b) with respect to the request(s) of government office(s) and petitions brought by programs (hereinafter listed):

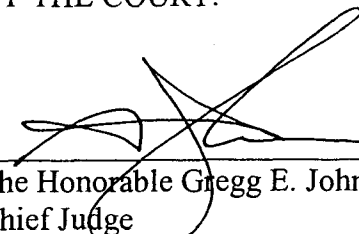
1. Petition No. 112, Petition of Greater Twin Cities United Way. No action required.

2. Petition No. 124, Petition of Minnesota Child Care Resource and Referral Network. DENIED.
3. Petition Nos. 125 in part and 132, Petition of Minnesota Trucking Association and Minnesota Manufactures Homes Association. GRANTED.
4. Petition No. 125 in part, Petition of Minnesota Trucking Association (Rest Areas). DENIED.
5. Petition No. 127, Petition of Minnesota Indian Women's Resource Center. GRANTED.
6. Petition Nos. 121, 122, 129, 134, 135, 136 and 138, Petitions regarding funds and grants administered by the Office of Justice Programs. GRANTED.
7. Petition Nos. 130 and 137, Petitions of American Federation of State, County and Municipal Employees and Minnesota Association of Professional Employees. DENIED.

### ORDER

1. Petition 112 requires no action.
2. Petitions 121, 122, 125 in part, 127, 129, 132, 134, 135, 136, 138 are deemed core functions of government within the State of Minnesota and, therefore, are granted.
3. Petitions 124, 125 in part (Rest Areas), 130, 137 are denied and not deemed to be a core function of government within the State of Minnesota.

BY THE COURT:

  
The Honorable Gregg E. Johnson  
Chief Judge  
Ramsey County District Court

Dated this 7<sup>th</sup> day of July, 2005.

40  
STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

FILED  
Court Administrator

SECOND JUDICIAL DISTRICT

JUL - 7 2005

Case Type: Civil

By WJ Deputy

Court File No. C0-05-5928

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

**ORDER GRANTING  
MOTION FOR FUNDING  
SUBJECT TO MODIFICATION  
(July 7, 2005 - VI)**

On June 23, 2005, Chief Judge Gregg E. Johnson heard oral argument upon the Motion of Petitioner Mike Hatch, Attorney General of the State of Minnesota, and the Motion to Intervene by Governor Tim Pawlenty and following said hearing, the court issued its Findings of Fact, Conclusions of Law, and Order Granting Motion for Temporary Funding.

In its Findings of Fact, Conclusions of Law, and Order Granting Motion for Temporary Funding dated June 23, 2005, the Court appointed Justice Edward C. Stringer as Special Master to mediate, hear and make recommendations to the Court with respect to issues regarding compliance with the terms of its Order. On Wednesday, July 6, 2005 and Thursday July 7, 2005, Justice Stringer conducted hearings regarding Petitioners seeking state funding as providers of core services of government.

The Court accepts and adopts the findings of the Special Master subject to modification pursuant to Rule 53.05(b) with respect to the request(s) of government office(s) and petitions brought by programs (hereinafter listed):

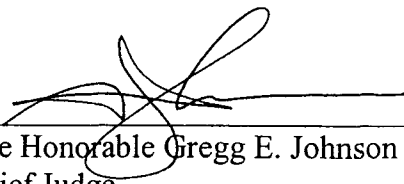
1. Petition No. 139, Petition of Minnesota Housing Partnership.  
GRANTED.

2. Petition No. 145, Petition of Minnesota Council of Airports. GRANTED.
3. Petition No. 148, Petitions of Minnesota Nurses Association. DENIED.
4. Petition No. 149, Petition of White Earth Reservation. GRANTED.
5. Petition No. 152, Petition of Ramsey County Board of Commissioners. GRANTED.
6. Petition No. 153, Petition of Senator Wes Skoglund. GRANTED in part and DENIED in part.

### ORDER

1. Petitions 139, 145, 149, 152 are deemed core functions of government within the State of Minnesota and, therefore, are granted.
2. Petition 148 is denied and not deemed to be a core function of government within the State of Minnesota.
3. Petition 153 is granted as to MN/DOT traffic cameras, variable message signs and Freeway Incident Response Safety Team (FIRST). Petition is denied as to issuance of licenses for driving and professional licenses.

BY THE COURT:

  
\_\_\_\_\_  
The Honorable Gregg E. Johnson  
Chief Judge  
Ramsey County District Court

Dated this 7<sup>th</sup> day of July, 2005.