

**Minnesota Department of Human Services
Acting Commissioner Chuck Johnson
Post Office Box 64998
St. Paul, Minnesota 55164-0998**

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

February 27, 2018

Dear Rep. Matt Dean,

I am writing to express concerns with HF2725, a bill that would repeal MNsure and create a new county-based eligibility determination system for Medical Assistance (MA) and MinnesotaCare. This system would replace the Minnesota Eligibility Technology System (METS) and MAXIS and require counties to administer MinnesotaCare. The bill also establishes an information technology steering committee to direct development of the new system.

The goal and impact of the bill is unclear as it is currently written. We are still assessing the potential unintended effects and disruptions this bill will create for our stakeholders, partners and the individuals we serve. Below are some of our preliminary concerns.

DHS is designated as the single state agency required to administer and oversee the Medicaid (Medical Assistance) program. DHS ensures compliance with federal eligibility rules and establishes processes and procedures to ensure Minnesotans are able to enroll. The bill is unclear about how Medical Assistance and MinnesotaCare eligibility will be assessed and determined and how authority would be divided between DHS, counties and the commissioner of Revenue. It is unlikely the federal government would approve of such a structure.

It is also unclear how we would transition from METS to the new proposed system, or how the resources currently devoted to METS would impact the county-developed system. METS is an integrated eligibility and enrollment system that provides functionality for Medical Assistance, MinnesotaCare and the individual market. The bill's attempt to reconfigure eligibility functionality does not change the underlying functions and resources required to operate a fully integrated system to meet federal and state requirements. A non-integrated eligibility and enrollment system will greatly impact the experiences of mixed-eligibility households, putting seamless service out of reach by shifting case management to multiple entities.

We are also concerned that the bill does not address other important functions performed by MNsure, notably navigator support and community outreach grants. These resources have been vital to people in need of health care coverage, including public program enrollees.

We would be happy to meet with you to discuss our concerns and identify any technical assistance we could provide. Please feel free to contact Matt Burdick, Legislative Director for the Health Care Administration, at 651-431-4858 if you would like to meet and further discuss this bill.

Sincerely,

A handwritten signature in blue ink, appearing to read 'C. Johnson', with a long horizontal flourish extending to the right.

Charles E. Johnson
Acting Commissioner

Memo

Date: March 19, 2018

To: Senator Michelle Fischbach and Rep. Sarah Anderson

CC: Senators Julie Rosen, Jeff Hayden and Tony Lourey
Representatives Ron Kresha and Rena Moran

From: Jennifer Sommerfeld, Legislative Director
Children and Family Services, Department of Human Services

Christopher Orr, Legislative Director
Operations, Department of Human Services

Re: SF 3228/HF 3454 – Relative Foster Care Licensing and Child Protection Pilot Projects

The Child Safety and Permanency and Licensing divisions at the Department of Human Services have carefully reviewed this proposed legislation and have significant concerns. Our concerns include, but are not limited to the following:

- While we know that relatives experience barriers to completing the foster care licensing process, and agree that we should work to eliminate barriers that unnecessarily delay the process, data has not been reviewed to identify the reasons for those barriers and how existing processes are or are not used to overcome them.
- The proposal does not authorize the department and pilot counties to work together to amend the background study process or specify how the relative foster parents will be assisted in navigating the process.
- The pilot will have statewide implications, unless it is limited to cases where pilot counties are responsible for both the foster care placement and licensing the relative caregiver.
- The proposal narrowly defines how the pilot will be considered successful, and does so without considering the permanency or well-being outcomes for the child. The proposal also does not provide for any of the evaluation necessary to measure impact of the proposal that will require funding.

- The counties that participate in the pilot must agree that a foster child will not be placed with a relative who has a permanent bar. The bill as drafted does not include this provision.
- The State's Title IV-E Plan includes the background study process. The state must consult with the U.S. Department of Health and Human Services to determine if a waiver is necessary to implement a pilot.
- Northstar Care for Children includes a federal, state and local share in the cost, the proposal requires a fiscal note to consider the implications. Without a waiver to the State Plan's Guardianship Assistance Program, it is likely the children in the pilot will not be eligible for federal reimbursement, and placement expenditures would need to be made up by the state and county.
- The pilot will require an evaluative design and data analysis/case review and staff to conduct the evaluation and write a summary evaluative report to be provided to the Legislature.

We have additional concerns with this legislation and are happy to discuss them with you in person. At the Senate hearing on Monday, March 19, we do not intend to testify on this bill. Instead, we would prefer to continue the dialogue we began with Hennepin County staff last week, and expand it to include the legislation's authors. It is our hope that we can address our concerns and amend the bill to support careful consideration of this important issue.



March 19, 2018

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

Representative Sheldon Johnson
DFL Lead, State Government Finance Committee
259 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
St Paul, MN 55155

Dear Chair Anderson and Representative Johnson:

Thank you for your letter requesting information about the impact on the Department of Revenue if the legislature were to not act in response to the 2017 Federal Tax Law. Below, you will find a description of the resources needed to assist taxpayers and update our systems under this scenario.

2017 Federal Tax Law effects on Minnesota

The 2017 Federal Tax Law is the biggest revision of federal tax laws since 1986. The law – enacted December 22, 2017 – changes federal taxable income (FTI) in many ways for individuals, businesses, and nonprofit organizations. These changes affect tax filing in Minnesota because FTI is the starting point to calculate Minnesota taxable income. If Minnesota does not respond to the federal tax law changes, Minnesotans will be affected by a more complex filing system.

Before the 2017 Federal Tax Law, Minnesota’s definition of net income largely matched the federal definition of taxable income, which simplifies filing for Minnesota taxpayers. The more closely we match federal taxable income, the fewer forms, schedules, special instructions, and calculations are needed to file a state return.

The federal tax code often changes from one year to the next, and Minnesota has generally updated its tax code to match most or all of those changes. However, the 2017 Federal Tax Law changed far more provisions of the federal tax code – in more substantial ways and across more tax types – than we have seen in recent years.

The 2017 Federal Tax Law did not substantially affect tax year 2017 for the current filing season.¹ But, absent any changes in state tax law, returns filed next year will be drastically affected. Before making the “usual” adjustments to get their Minnesota taxable income, state taxpayers will need to make many new adjustments to account for the differences between the 2017 and 2016 definition of FTI.

¹ On February 9, Congress passed the federal Bipartisan Budget Act of 2018. This legislation provided tax relief for disaster victims and renewed a number of individual and business tax benefits for tax year 2017. Minnesota would need to pass legislation to conform to these provisions. The extended provisions are similar to what Congress has passed in previous years; Minnesota has conformed to parts of the package in prior years.

The department will work to ensure the most efficient and effective filing system for our customers. Our goal is to continue to provide excellent service to all of our customers, and to ensure we maintain our current service levels, including:

- Informing our customers through outreach and education
- Answering customer questions by phone, email, letter, and in-person
- Developing and maintaining technology systems to file and pay
- Processing tax returns and issuing refunds
- Auditing an appropriate number of returns to encourage compliance and collect taxes owed
- Responding to taxpayer appeals in a timely manner

However, if there is no law to respond to the federal changes, there will be complexity for individuals, businesses, and nonprofit organizations that the department cannot mitigate, as outlined in the following sections.

Individual Income Tax

Impacts of Not Responding

The Department of Revenue serves 2.9 million Individual Income Tax customers each year. Of these:

- 56% rely on professional tax preparers who use tax preparation software
- 31% file their own returns using tax software
- 11% file their own returns on paper
- 2% use professional tax preparers who file on paper

The 2017 Federal Tax Law will affect virtually all of our customers – taxpayers, tax preparers, and tax software providers – and will have a significant impact on the department and the ways we serve them.

Impacts to taxpayers

The substantial mismatch between the Minnesota and federal definition of taxable income will add complexity for anyone who files an individual income tax return in the state. As a result, more Minnesotans may:

- Need to hire a tax professional or buy tax software to prepare their returns.
- Pay more for tax preparation services and software than in previous years.
- Wait longer for tax refunds because of inadvertent errors made in preparing new or more complicated forms, schedules, and worksheets.

Taxpayers must plan carefully to avoid potential surprises at the end of the year. Some will need to:

- Change their withholding or estimated payments to avoid potential penalties if they do not pay or withhold enough during the year.
- Keep separate or additional records for state taxes, such as:
 - Retain all of their receipts for meals and entertainment expenses that are allowed on their Minnesota (but not federal) return.
 - Keep track of home equity loan interest – which may be deducted on their Minnesota return but not necessarily on their federal return – separate from other home mortgage interest.

Impacts to tax preparers and software providers

The differences in state and federal tax laws will also affect tax preparers and software providers – who together serve 89% of the people who file a Minnesota return.

- Tax preparers will need to research and understand the impacts to properly advise their clients and prepare returns. For some clients, they will have to spend more time preparing a return and explaining changes from previous years.
- Software providers will need to spend significantly more time updating their programming to account for the differences between Minnesota and federal tax laws.

Impacts to the department

At the Department of Revenue, federal nonconformity will create challenges before, during, and after the income tax filing season. It will touch on every aspect of our work – yearly planning and system updates, forms and instructions, outreach efforts and materials, customer assistance phone centers, and other tools and information we provide to help Minnesotans report, pay, and receive the right amount of tax and refunds.

Among other things, the department will need to:

- Modify existing income tax and property tax refund forms, schedules, worksheets, and instructions, as well as create several new income tax schedules and instructions.
- Replicate the 2016 federal tax code in our forms and instructions so customers can determine what their federal taxable income (FTI) would have been under previous law before making the “usual” adjustments to get to their Minnesota taxable income.
- Reconfigure, test, and maintain our computer systems to account for the state-federal differences.
- Help more customers before, during, and after the individual income tax filing season, including more in-person and electronic outreach and an expected increase in the number – and the complexity – of customer questions by phone, email, and other means. It will take more time to answer many of these questions than in past years.
- Review and adjust a higher number of individual income tax returns due to customer errors. In many cases, we will have to contact the customer for more information before we can finish processing their return or send a refund.
- Audit and correct a higher number of errors that we are unable to identify during processing – sometimes up to 1 or 2 years after the customer filed their return. We will need to do more audits, and many of them will take longer, due to the number of differences between federal and state tax laws.

Our plan

To help customers, we will maintain as much consistency as possible on the Minnesota Individual Income Tax Return (Form M1) and other existing forms. Taxpayers will use a new, comprehensive schedule to recalculate their Minnesota adjusted gross income and then carry that amount through to other Minnesota schedules as needed to determine Minnesota taxable income.

This approach offers several advantages for the department and our customers:

- Makes the adjustments more transparent so taxpayers are more likely to understand what they need to do to comply with the differences between federal and Minnesota law.

- Accommodates filers who do not meet the minimum requirement to file a federal return but still need to file a Minnesota return.
- Allows the department to:
 - Clearly review adjustments taxpayers have made under the different laws.
 - Systematically adjust individual tax returns if Minnesota later conforms to some or all the provisions of the 2017 Federal Tax Law.
 - Respond more easily to federal and state law changes in future years.

Business Income Taxes

Impacts of Not Responding

The Department of Revenue serves over 1 million businesses, partners, shareholders, beneficiaries, and nonprofit organizations that file income tax returns in Minnesota. Among them:

- 50,000 corporations and other businesses – which make up over 30,000 unitary groups – that do business in our state and file a Minnesota corporate income tax return.
- Nearly 225,000 flow-through businesses – like partnerships, trusts, and S corporations – that file entity-level returns in Minnesota and pass their income to individuals or other businesses.
- Over 700,000 partners, shareholders and beneficiaries who include flow-through income, credits, and Minnesota modifications on their state income tax returns.
- Over 7,500 nonprofits that receive non-charitable income and file an Unrelated Business Income Tax (UBIT) return in Minnesota.

The 2017 Federal Tax Law will affect all businesses that file a tax return in Minnesota – and the tax professionals who serve them – and will have a significant impact on the department.

Impacts to taxpayers

As with individuals, the substantial mismatch between the Minnesota and federal tax codes will complicate filing and paying taxes for our business customers. As a result, most of them will:

- Need to complete more -- and more complex -- schedules and forms to adjust their federal taxable income (FTI) to prepare their Minnesota returns.
- Face a far different filing process than in past years when nonconformity modifications were simpler and we could largely maintain the normal course of Minnesota forms and schedules.
- Keep additional records for state taxes, such as:
 - Maintaining separate basis and depreciation schedules – for up to 20 years or more - for things like machinery, equipment, software, computer systems, and other assets eligible for tax benefits such as bonus depreciation, section 179 expensing, or like-kind exchanges.
 - Keeping books and records under both the accrual and cash methods of accounting – for those who may now choose the cash method for federal purposes but must use the accrual method for Minnesota.

Impacts to business tax professionals

The state-federal mismatch will also affect business tax professionals as they work to consult, advise, plan, and prepare returns for Minnesota's businesses.

- Tax professionals will need to research and understand the Minnesota impacts – in addition to the federal impacts and impacts across many states – to help their clients and employers make informed business decisions and prepare federal and state returns across the country.
- Accounting professionals will need to spend significantly more time ensuring necessary books and records are maintained for federal and state purposes to account for the differences between Minnesota and federal tax laws.

Impacts to the department

At the Department of Revenue, federal nonconformity will create challenges in each stage of the business filing process. As with individuals, the department will need to create significant new forms, instructions, and other materials, and make substantial changes to those materials, our outreach, and other tools and information we provide to Minnesota businesses. There will be significant costs to reconfigure, test, and maintain our computer systems to account for the state-federal differences.

Nonconformity creates the need for new Minnesota modifications, and shifts some areas of law to the department to administer on its own, provide guidance, and answer questions. In addition to meeting the current needs of our business partners, we will need to provide more robust, transparent guidance – through Revenue Notices, administrative rules, etc. – and complete more-complex business income tax audits in a timely manner.

Our plan

The department will develop a new nonconformity (NC) form for each type of business income return – corporate franchise tax, S corporation, partnership, fiduciary, and UBIT – and for the flow-through K schedules for partners, shareholders, and beneficiaries. This new NC form will record the amount of each item of adjustment, along with instructions and worksheets for the calculations. The new NC form will have at least 40 lines.

This approach offers several advantages for the department and our customers:

- Ensures all business taxpayers can calculate the needed adjustments to FTI in a similar manner.
- Provides clear information to partners, shareholders, and beneficiaries who receive items of income, credit and Minnesota modification from flow-through businesses to include on their individual or business income tax returns.
- Allows the department to adjust business tax returns systematically if Minnesota later conforms to some or all provisions of the 2017 Federal Tax Law.

Description of Work

As we review the 2017 Federal Tax Law, the Department of Revenue’s goal is to provide excellent customer service and maintain our existing level of services as we process tax returns and refunds, answer customer questions and phone calls, provide outreach and education, audit an appropriate number of returns, and respond to taxpayer appeals.

Our work is guided by the following principles and priorities:

- Minimize the impacts to all of our customers including taxpayers, preparers, and software providers.
- Support voluntary compliance through forms and instructions that illustrate the changes required to calculate Minnesota taxable income as clearly and transparently as possible.
- Collect enough information from taxpayers so we can help those who intended to file correctly but did not due to the added complexity of their returns.
- Protect the integrity of the tax system and administer it in accordance with the laws currently in place.

We will do our best – for all customers and for the state – to administer the Minnesota tax system based on the statutes currently in effect. However, if Minnesota does not act to conform to the 2017 Federal Tax Law, it will complicate reporting, filing, and paying taxes for every person, business, and nonprofit that files an income tax return in Minnesota.

Implementation

Absent any law changes, people, businesses, and nonprofits that pay Minnesota income tax will find it challenging to file returns for tax year 2018 and beyond. The department will need to create many new tax forms and update existing forms, instructions, schedules, fact sheets, web content, and other materials.

Beyond the department’s normal course of business, we will need to:

- Draft over 80 pages of new income tax instructions and make changes to many existing instructions for tax year 2018.
- Effectively re-create the 2016 federal tax code in Minnesota forms and instructions because we can no longer refer taxpayers to IRS instructions for items that affect FTI.
- Communicate these impacts and changes to individuals, businesses, tax preparers and professionals, and tax software companies – through letters, subscription email services, social media bulletins, press releases, conference calls, training, and classes.
- Update employee instructional and training materials to ensure employees are equipped to answer questions and able to serve taxpayers accurately and efficiently.
- Reprogram, test, and maintain new code for the Integrated Tax System and other computer systems used to:
 - Administer the tax system
 - Evaluate the effects of potential tax law changes
 - Forecast revenue under current and future law

Resources

The department will need additional resources and staff for the following activities:

- Train and prepare our customers and employees for the significant filing changes
- Educate taxpayers, the tax preparer community, and VITA and AARP volunteers about the changes
- Respond to increased customer questions by phone, email, letter, and in-person
- Handle increased requests for information and assistance from the Taxpayer Rights Advocate
- Update, test, and maintain code in our computer systems

- Review and adjust more tax returns – or contact taxpayers for information – during processing
- Handle more-complex audits, enforcement activities, and legal actions to collect past due taxes
- Respond to more appeals from taxpayers
- Provide increased technical guidance and legal analysis, advice, and opinions

Implementation Costs and FTEs

dollars in thousands (000s)

	FY 2018	FY 2019	FY 2020	FY 2021
Individual Taxes				
Employees and Services	\$538	\$2,975	\$2,235	\$2,099
Systems Updates and Support	-	\$1,147	\$375	\$355
Business Taxes				
Employees and Services	\$227	\$942	\$2,028	\$2,646
Systems Updates and Support	-	\$1,954	\$432	\$336
Total	\$765	\$7,018	\$5,070	\$5,436

	FY 2018	FY 2019	FY 2020	FY 2021
Individual Taxes				
Employees and Services	5.6	34.3	25.3	23.5
Systems Updates and Support	-	3.3	2.5	2.3
Business Taxes				
Employees and Services	2.4	10.0	21.4	27.8
Systems Updates and Support	-	4.0	1.8	0.8
Total	8.0	51.6	51.0	54.4

Long Term Costs

We will need ongoing and annual system support, to maintain the new code, and expanded data storage.

We will need to maintain increased staffing levels to handle customer service, compliance, enforcement, and collection activities, return processing, taxpayer appeals, legal support, outreach, and education.

Many of the Individual Income Tax provisions in the 2017 Federal Tax Law are scheduled to expire in 2025. If they expire, Minnesota will need to reverse any changes made to accommodate the expiring provisions – at substantial additional cost at that time.

Moving Forward

The department is eager to serve Minnesota taxpayers in the most efficient and effective way possible. We welcome any opportunity to discuss how we can best do that on behalf of Minnesota.

Sincerely,

Cynthia Bauerly
Commissioner

Cc: Representative Greg Davids, Chair, House Taxes Committee
Representative Paul Marquart, DFL Lead, House Taxes Committee

March 22, 2018

The Honorable Matt Dean
State Representative
401 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
Saint Paul, MN 55155

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

The Honorable Dean Urdahl
State Representative
473 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
Saint Paul, MN 55155

The Honorable Erin Murphy
State Representative
331 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
Saint Paul, MN 55155

The Honorable Jeanne Poppe
State Representative
291 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
Saint Paul, MN 55155

The Honorable Alice Hausman
State Representative
255 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
Saint Paul, MN 55155

Dear Chairs Dean, Hamilton, and Urdahl and Ranking Members Murphy, Poppe, and Hausman:

Ag/Health Lab Bonding Request Committee Question Follow-up

Attached is information that the Department of Administration has put together, with the assistance of the Departments of Agriculture and Health, in response to legislative inquiries about the Ag/Health Lab proposal during recent committee hearings on Governor Dayton's bonding recommendations.

In summary, the overall project involves a combination of both changes and upgrades to address life safety issues, as well as changes to accommodate new functionality and/or advances in relevant science and technology. All are essential to position the lab to effectively achieve its mission.

We look forward to continuing the conversation with all of you on this important project as session progresses. If you have any follow-up questions, please contact Katie Knutson, Katie.Knutson@state.mn.us, Legislative Director for the Department of Administration.

Sincerely,



Commissioner Fredrickson
Agriculture



Commissioner Malcolm
Health



Commissioner Massman
Administration

MDA / MDH Laboratory Building Infrastructure Improvements and Renovation

Project Summary

The Agriculture and Health Departments are seeking funding to address safety, energy and operational deficiencies to meet current requirements and support critical laboratory testing in the areas of emergency response, food safety, infectious diseases, homeland security, and environmental contaminants. This laboratory also provides specialized containment space providing biosafety and biosecurity to employees and the public. These spaces allow both MDA and MDH to achieve their mission to protect public health from biological threat agents and disease while maintaining the safety of their staff.

The MDA and MDH are tenants of the laboratory while the Department of Administration has custodial responsibilities for the facility.

The State commissioned an engineering firm to prepare a recommissioning report to ensure the lab's building systems were operating to deliver the functional and efficient performance necessary to meet its needs. The report issued in December 2016 identified several deficiencies that should be implemented to ensure safety and improve operational performance.

What was the specified ductwork for the laboratory exhaust air system?

Per Section 9.14.E.6 attached Construction Documents Design Review Narrative dated March 17, 2004, the specifications indicated as follows:

- *Stainless steel ductwork is being incorporated into the design from the fume hoods to the main ductwork runs. Design direction is as follows:*
 - *Branch ducts from fume hoods are stainless steel*
 - *Branch ducts from other Laboratory exhaust are galvanized steel*
 - *Main trunks and risers are to be galvanized steel*

There is no information to indicate that the contractor did not install what was specified in the design.

What elements of the project are for upgrades and necessary to meet agency mission vs. items that were design decisions during construction?

The items below are a combination of upgrades and changes needed to meet agency mission and operational needs. The technology has improved in many areas since original construction. The options available for exhaust ductwork between galvanized and stainless steel are essentially the same as existing during the original construction.

This project will address the following elements that were design decisions during construction. These life safety needs are:

- Replacement of deteriorated ductwork to reduce the risk of liquid and air contamination of laboratory spaces and to reduce the need to operate exhaust systems beyond design parameters. This change addresses the breakdown of the ductwork due to movement of acid further into the HVAC system than anticipated during construction.

- Repair and replacement of HVAC system components to improve temperature control and guard against heating line freeze-ups such as the lab experience in 2014 causing over \$1 million in damage.
- Update the exhaust and airflow systems to mitigate the identified risk that lab air contaminants could enter office and meeting spaces.
- Install a centralized, building-wide uninterruptable power supply to ensure that laboratory equipment does not shut down and critical specimens are not lost during power failures.

This project will also make upgrades necessary to accommodate improved technology and science:

- Redesign laboratory spaces to minimize the risk of cross contamination of samples. This change is the result of changes in techniques employed for food pathogen testing from the time of construction to now.
- Create a dedicated biosafety level 3 (BSL-3) laboratory space needed to test food for threat agents such as anthrax, plague, and ricin that meets federal standards and allows for safe handling of select agents.

What legal options are available to recover costs for corrective work?

Per below, the Statute of Limitation on the MDA / MDH Laboratory Project has expired:

§ 541.051 LIMITATION OF ACTION FOR DAMAGES BASED ON SERVICES OR CONSTRUCTION TO IMPROVE REAL PROPERTY.

Subdivision 1. Limitation; service or construction of real property; improvements.

(a) Except where fraud is involved, no action by any person in contract, tort, or otherwise to recover damages for any injury to property, real or personal, or for bodily injury or wrongful death, arising out of the defective and unsafe condition of an improvement to real property, shall be brought against any person performing or furnishing the design, planning, supervision, materials, or observation of construction or construction of the improvement to real property or against the owner of the real property more than two years after discovery of the injury, nor in any event shall such a cause of action accrue more than ten years after substantial completion of the construction. Date of substantial completion shall be determined by the date when construction is sufficiently completed so that the owner or the owner's representative can occupy or use the improvement for the intended purpose.

Additionally, there are a number of other factors with an unknown impact, including but not limited to the following:

- Role of original construction appropriation and budget
- Day to day operational requirements for the building differing from design intent as a result of user needs and actual building performance

Laboratory mechanical systems are very complex and adjustments have been made in operations over the years.

Is the project able to be phased?

The MDA/MDH laboratories have a critical role in protecting human health, the environment, and the agricultural economy in Minnesota. Much of the testing performed by these laboratories is not available at other locations and requires the use of sophisticated, up-to-date facilities and instrumentation. Routine testing includes screening of food, water, human clinical specimens, and a variety of other samples to identify environmental risks, infectious diseases, threats to our food and water supplies, and other public health threats.

Due to this critical role, the laboratory facilities are required to remain operational throughout the project. Construction work will involve temporary relocations, which will require close coordination between the contractor, subcontractor and laboratories to minimize operational impacts. If full funding is approved this year, construction is scheduled to begin in September 2018 and be completed by June 2020.

Each of the main elements of the project overlap from a building systems perspective. Completing this work piecemeal has the potential to compromise the integrity of the overall system, and increase costs both on operating budget and construction costs. In addition, extending the construction further is not recommended due to the critical role of the laboratory facilities.

Cost Breakdown

Item	Cost	Totals
Project Management: Construction Administration and Re-Commissioning	\$ 1,110,000.00	\$ 1,110,000.00
Construction*:		
Lighting	\$ 918,252.00	
Upgrade UPS to building wide system	\$ 215,514.00	
BSL-3 Improvements	\$ 2,094,573.00	
HVAC and Plumbing	\$ 11,834,491.00	
Subtotal for Construction	\$ 15,062,830.00	
Other expenses to execute construction	\$ 2,257,170.00	
Total for Construction	\$ 17,320,000.00	\$ 17,320,000.00
Relocation Expenses from General Fund	\$ 720,000.00	\$ 720,000.00
Inflationary Adjustment	\$ 1,471,000.00	\$ 1,471,000.00
Total for Capital Budget Request		\$ 20,621,000.00

*If items are not selected together then add 7.5% for different phasing requirements.

March 27, 2018

The Honorable Pat Garofalo, Chair
Jobs Growth and Energy Affordability Policy and Finance Committee
485 State Office Building
100 Rev. Dr. Martin Luther King Jr. Boulevard
Saint Paul, MN 55155

The Honorable Dan Fabian
365 State Office Building
100 Rev. Dr. Martin Luther King Jr. Boulevard
Saint Paul, MN 55155

Dear Chairman Garofalo and Representative Fabian:

I write to express the Commerce Department's opposition to HF 3759. This bill exempts Enbridge's Line 3 Pipeline proposal from the Public Utilities Commission (PUC) Certificate of Need and Routing Permitting process.

First, Commerce opposes HF 3759 because the PUC is the appropriate venue for the decision about whether Line 3 should be built. Thousands of Minnesotans, State Agencies, Enbridge, Tribal Governments, Labor, environmental groups, the Administrative Law Judge, and other stakeholders have all participated to provide input into this important decision. The PUC is charged with weighing all of the information it has received in a judicious and objective manner, based on facts associated with need, impact and benefit to the State.

Second, Commerce has concerns with HF 3759's provision allowing Enbridge, at its sole discretion, to construct the Line 3 pipeline on its preferred route. Not only does this provision negate the routing process, but it also allows Enbridge to acquire land through eminent domain for a private commercial purpose. HF 3759 disregards tribal treaty rights and the wishes of other private landowners and allows Enbridge to construct Line 3 on its preferred route without regard to the impact the route would have on the surrounding environment. The Environmental Impact Statement (EIS) process that is currently underway at the PUC allows for independent, scientific evaluation of the proposed project and project alternatives to identify the route with the least environmental, economic, and sociological impacts. It is irresponsible to allow Enbridge to build Line 3 before this process is completed when Enbridge's preferred route may not be in the best interest of Minnesotans. Decisions on route alternatives are best dealt with in an impartial venue like the PUC as opposed to a private business or the legislature.

The Honorable Pat Garofalo
The Honorable Dan Fabian
March 27, 2018
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Third, circumventing the permitting process may put Minnesotans at risk. In this case, risks include accidental releases of toxic and combustible materials from pipeline failures or hostile actions. This is of great concern since HF 3759 does not address oil-spill clean-up assurances or financial assurances to the State and citizens that could otherwise be addressed in a route permit issued by the PUC.

Finally, under HF 3759 Minnesota landowners, businesses, communities, and residents may end up with a pipeline project they do not need. The Certificate of Need and Routing Permit processes at the PUC seek to avoid the building of unnecessary and costly facilities in our State. Only the PUC can take into account all of the facts, data, science, and technical expertise that has been developed and shared about this project and provide a determination about whether the Line 3 project is needed for the benefit of Minnesota.

Thank you for considering Commerce's opposition to HF 3759. I hope this information is helpful to the members of the Jobs Growth and Energy Affordability Committee and I urge the Committee to vote against this bill.

Sincerely,



Jessica Looman
Commissioner

Minnesota Department of Human Services
Acting Commissioner Chuck Johnson
Post Office Box 64998
St. Paul, Minnesota 55164-0998

March 27, 2018

The Honorable Greg Davids
Minnesota House of Representatives
585 State Office Building
St. Paul, MN 55155

The Honorable Roger Chamberlain
Minnesota Senate
3225 Minnesota Senate Building
St. Paul, MN 55155

Dear Representative Davids and Senator Chamberlain:

The Department of Human Services (DHS) opposes [HF 3543](#) and its companion SF 3392, as it would prevent Minnesotans from accessing affordable, comprehensive health care coverage on the individual market.

This bill prohibits Governor Dayton's MinnesotaCare Buy-In, which proposes a new comprehensive, affordable health insurance option for Minnesotans. The MinnesotaCare Buy-In would leverage the state's public health care program-purchasing power to get better value for individual-market consumers and the state. This proposal builds on the successful legacy of the bipartisan MinnesotaCare program, which has long provided health insurance for those who earn too much to qualify for Medicaid but have difficulty affording health care. The MinnesotaCare Buy-In would offer additional coverage for dental, vision and behavioral health care. Enrollee premiums paid to DHS would be sufficient to fund coverage costs.

HF 3543/SF 3392 will limit the number of affordable options for Minnesotans who are facing steep health care premiums and high out-of-pocket costs. The 2016 Health Care Financing Task Force—a bipartisan groups of leaders and experts—recommended expanding MinnesotaCare to increase health care affordability for Minnesotans. We encourage you to review the recommendations made by the Task Force as HF 3543 is considered.

Sincerely,



Charles E. Johnson
Acting Commissioner



**Minnesota Department of Human Services
Commissioner's Office
Post Office Box 64998
St. Paul, Minnesota 55164-0998**

**Minnesota Department of Employment and
Economic Development
Commissioner Shawntera Hardy
332 Minnesota Street, Suite E200
St. Paul, Minnesota 55101**

Senator Mark Johnson
95 University Avenue West
Minnesota Senate Building Room 2105
Saint Paul, Minnesota 55155

Senator Michelle Benson
95 University Avenue West
Minnesota Senate Building Room 3109
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Senator Tony Lourey
95 University Avenue West
Minnesota Senate Building Room 2211
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Representative Erin Murphy
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Representative Matt Dean
100 Rev. Dr. Martin Luther King Jr. Blvd.
401 State Office Building
Saint Paul, Minnesota 55155

Representative Kelly Fenton
100 Rev. Dr. Martin Luther King Jr. Blvd. 525
State Office Building
Saint Paul, Minnesota 55155

March 28, 2018

Dear Legislators:

We are writing today to share our concerns with HF3722 and SF3611, a bill that will impose work requirements on Minnesotans receiving Medical Assistance. We join Governor Dayton in opposing this bill as we believe it will move the state backward in our efforts to ensure that Minnesotans have access to affordable health care and are on a pathway to meaningful employment.

For decades, Minnesota has benefited from policies that allow people to live more secure and productive lives by expanding access to affordable health care. In 2010, when the Affordable Care Act became law, Minnesota was well positioned to leverage additional federal dollars to cover many more people at a low cost to the state's taxpayers. Imposing work requirements on Minnesota's Medicaid population will undo this progress by substantially increasing barriers for Minnesotans and the costs for cities and counties who serve them.

The 2011 expansion of coverage to more Minnesotans has proven to be a smart use of taxpayer dollars, making investments in healthier lives for Minnesotans. Proponents of this new bill assert that work requirement legislation is necessary to control recent growth in Medicaid expenditures and enrollment. However, rising costs in Medicaid are driven by increases in the cost of care for enrollees who are over 65 or disabled, not the populations affected by this bill.

Spending per single adult enrollee—who are the focus of this legislation—has declined by five percent in the last five years. This group represents 18 percent of the Medicaid population but only 15 percent of the program's spending, and the state picks up only six percent of the cost.

Today, the majority of Minnesota Medicaid enrollees are already working. According to the Census Bureau's recent *Current Population Survey*, more than 80 percent of Medicaid enrollees who are not elderly or disabled have at least one worker in their household. This bill doesn't address the structural barriers for someone who cannot find work, instead creating additional barriers for people with low incomes who are already struggling to pay for basic needs.

The work requirements introduced in this legislation would mean complex, new administrative procedures and systems that would be expensive to implement and would create immense challenges for counties, tribes and Minnesotans using Medicaid for their health coverage. Counties—who are already struggling with heavy workloads—would bear the greatest burden. Under this legislation, county workers will be responsible for verifying exemptions and ensuring compliance with work requirements. This will mean significant investments of staff time, necessitating in-person interviews and regular follow up. Documenting work requirements and any changes in exemptions will also require considerable time and resources as peoples' lives change following events like a lost job, an illness, a car accident or the completion of residential treatment for substance use disorders.

Work requirements in Minnesota would mean a significant state investment in staffing and IT to develop, manage, track and verify compliance, and would derail other priorities such as systems modernization. State IT systems are not currently designed to capture the type of information called for in the bill or to pause a person's benefits. More than 70 percent of Medicaid enrollees enroll online at application, and because the system is not built to determine many of the proposed exemptions, additional capacity and training at the county level will be needed to handle the influx of cases. Although new and significant investment in IT and operations will be required to align this proposal with other programs and systems, federal guidance is not specific on what IT and administrative activities qualify for federal funding and there is no enhanced federal funding for any of these activities. Additionally, in order to satisfy work requirements, the state and counties will also need to offer assistance with career planning, job training, referral and job support services.

Moreover, these costly efforts do nothing to address the structural barriers that prevent people from working, such as availability of employment or child care, lack of transportation and stable housing, age discrimination or a criminal history. Child care and transportation barriers are compounded by atypical or irregular work hours, which are more common in low-wage jobs. These issues are particularly acute in rural Minnesota.

Medicaid is a safety net for all Minnesotans and a pathway out of poverty for many. We should turn our attention to securing high-quality care and services, deploying career pathway strategies, shoring up the financial stability of the program and investing in innovative solutions that deliver true economic value to our state.

For these reasons, we strongly oppose HF3722/SF3611. Please contact us with any questions regarding this issue.

Sincerely,

A handwritten signature in black ink, appearing to be 'C. E. Johnson', with a long horizontal stroke extending to the right.

Charles E. Johnson
Acting Commissioner

A handwritten signature in black ink, appearing to be 'Shawntera Hardy', written in a cursive style.

Shawntera Hardy
Commissioner

Equal Opportunity Employer



Minnesota Department of Education
1500 Highway 36 West
Roseville, MN 55113-4266

March 28, 2018

Representative Sondra Erickson
479 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
Saint Paul, Minnesota 55155

Rep. Erickson,

Thank you for the opportunity to testify before the House Education Innovation Policy Committee on the House Education Policy bill as introduced. The bill was amended later in the week and as consideration of HF3315 continues in the House of Representatives, I would like to convey my positions on provisions in the current bill.

I would like to thank you for including many of Governor Dayton's proposals. Of note, inclusion of language prohibiting punishing students for school lunch debt by preventing them from participating in extracurricular activities is a promising change. Additionally, the inclusion of items like eligibility enhancements for early learning scholarships, report reductions, and enhancements to the department's investigatory authority around student maltreatment make for strong policy that will benefit more children. Those and the other included governor's proposals will improve our work and provide needed clarity for educators, policymakers and the public.

I would also like to express my appreciation for the inclusion of many of the governor's initiatives to improve school safety. Providing educators and districts with clear guidance and additional tools to work with students in a constructive manner will serve to promote a safe climate in our schools.

However, the removal of the current requirement for schools to offer a student alternative education services, at a minimum, before starting dismissal proceedings is extremely disappointing. Additionally, I encourage you to reconsider the omission of language around threat assessments. There is bipartisan support around threat assessments, which are a crucial part of the process of identifying appropriate services for students before they leave the school system.

Another area of major concern is the inclusion of a summative rating system. A star rating system was attempted more than a decade ago in Minnesota and it failed; further, current research tells us that such rating systems don't work. For months, MDE staff have actively engaged with stakeholders throughout the state to gain feedback in the development of a new school report card. Through our extensive conversations with hundreds of Minnesotans via focus groups and committee meetings, stakeholders—including parents, students,

educators, business leaders, advocacy organizations and many others—have expressed a strong desire to make our current report card more understandable and transparent. They have also explicitly said that they do not want a simplistic summative rating system like the one proposed in your bill. A rating system based primarily on test proficiency does not tell the whole story of a school. And an outward-facing tool based on stars and numbers that is not aligned to ESSA will create confusion for parents when a school or district is rated high on the summative rating system but is identified for support on the ESSA accountability system, which we are federally required to do. In addition to adding confusion and undoing efforts to create a simple, understandable system, your proposed system defeats the purpose of aligning our state’s ESSA plan and World’s Best Workforce legislation. The proposal is duplicative and expensive, and it does not reflect the clearly stated desires and needs of Minnesotans. Let the input of the group of wide-ranging stakeholders, including experts, take precedence over the construct of a few.

Governor Dayton feels strongly about teacher quality, and eliminating the Tier 2 experience pathway to a Tier 3 professional license is crucial to that. Allowing a teacher to have an ongoing professional license without any formal teacher preparation creates a serious gap in supporting teacher quality. I will continue to advocate for this change.

While we respect the intent to provide students with more information about careers and other opportunities in the armed forces, I believe that the provision allowing non-classroom educators who give academic, college or career support to achieve their professional growth training for relicensure through training on career options with the armed forces or in skilled trades goes too far. This eliminates the requirement to receive ongoing training on cultural competency and working with English language learners – some of the very students that could benefit the most from comprehensive academic, career, and college counseling.

As my staff and I have testified many times, adding requirements for our local districts around civics is unnecessary. Civics, as written in statute, is already embedded into our state academic standards. As we can see from massive student activism around school shootings, our young people are some of the most civically engaged in a generation. Requiring one credit of civics ignores this as well as disrupts the credit expectations for the other social studies subjects embedded in our standards. Creating this graduation requirement also squeezes out elective career pathway course offerings. An additional state reporting requirement of the civics test will only add to burdensome district reporting requirements and will carry an agency cost.

Next, I find it problematic that the bill lacks any language on the presence of lead in school drinking water. I recognize that language passed last year touches on this, but it only covers making a plan, an all too generous testing cycle, and making results available. We need language that requires districts to do something if they find a certain level of lead and provide notice to parents of their test results. House File 3315 misses the opportunity to increase water quality for our students, but I am committed to work with stakeholders and MDH on acceptable language.

There are some areas of your bill where we can commit to working with the chair to improve the intent of the proposals. The language on World’s Best Workforce (WBWF) alignment to ESSA is a good attempt, but there are many areas that need to changes in order to avoid creating two competing accountability systems. By placing the responsibility to do curriculum review under WBWF, the proposal has improved and is workable. However, to complete this task with the effectiveness I know the chair would want, we require adequate resourcing for our school support and academic standards teams to build up capacity.

Finally, in line with the costs of effectively conducting curriculum review and reporting civics test results, I would point out that several other provisions in the bill carry a cost. As mentioned above, it would demand upfront and ongoing fiscal resourcing to build out and then maintain an outward facing summative rating report card. Technical assistance and guidance that will be necessary from MDE due to the mandatory nature of the health-curriculum related topics of Erin's Law, sexual exploitation, Jake's Law, and affirmative consent education will carry a cost. And, opening up 10th grade career and technical education courses under postsecondary enrollment options to private school students will carry a cost. As a rough estimate, all of these together would cost close to \$800,000 for the first few years, and around \$500,000 per year after that. I would counsel you to consider these costs very carefully as they are absolutely necessary for effective implementation.

While there are many items in HF3315 that I oppose, there are many items that I believe we can continue to support and work together on for the betterment of our students, educators and schools. I look forward to our continued collaboration.

Sincerely,

A handwritten signature in black ink that reads "Brenda Cassellius". The signature is written in a cursive, flowing style.

Brenda Cassellius
Commissioner of Education

cc: Representative Jenifer Loon, Chair of House Education Finance
Representative Jim Davnie, Minority Lead of House Education Finance
Representative Carlos Mariani, Minority Lead of House Education Policy Innovation



Minnesota Department of Human Services
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Commissioner Emily Piper
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April 9, 2018

Senator Michelle Benson
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Representative Matt Dean
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Representative Dean Urdahl
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100 Rev. Dr. Martin Luther King Jr. Blvd.
Saint Paul, MN 55155

Senator David Senjem
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95 University Avenue W.
Saint Paul, MN 55155-1606

Dear Senators and Representatives:

I am writing to alert you to resource needs of the Department of Human Services (DHS) related to the management of projects of a capital nature for local governments and non-public entities. There has been significant growth in the number of capital projects assigned to DHS over the past several years which has put a strain on the Department's capacity to manage this work. A number of new proposals have been introduced recently, which if enacted would require additional resources for the Department to adequately manage. I feel it is important to bring this to your attention as decisions are being made about appropriating funding for projects of a capital nature.

Responsibilities Related to Managing Projects of a Capital Nature

Projects of a capital nature typically involve some combination of predesign, design, construction, remodeling, equipping and furnishing facilities for public use. Managing these projects requires a significant amount of work. State bond funded projects require strict oversight since they are tied to tax-exempt bonds and the state's bond rating. To assure these requirements are met, DHS uses MMB grant contract templates that require adherence to legal parameters that direct project financing, land use laws, leasing agreements, and building construction. .

The grant, and any other related agreements, is developed in close cooperation with the grantee, DHS staff members, Department of Administration, Minnesota Management and Budget (MMB) Treasury

Division, and with internal review and acceptance by DHS legal staff. Specific responsibilities for a project include but are not limited to:

- Monitor legislative procedures and outcomes for DHS assigned projects
- Contact grantees to initiate the project
- Monitor board action approval from local government or non-profit entity
- Manage the predesign process and present to Department of Administration for approval
- Legislative notification
- Manage the development of lease agreements and present to MMB for approval
- Manage the development of the ground lease and present to MMB for approval
- Oversee budget development and ensure proof of full project funding
- Work with grantee and MMB to approve Grant Agreement Final Draft
- DHS Legal Review of Grant Agreement and in some cases related special agreements

As you can see from above, staff managing projects of a capital nature need to have a specialized set of skills and experience. Management staff must have the ability to interpret and navigate the construction process: architectural layout and use, local land use laws, local government proceedings, construction financing, real estate transactions, construction contracts, use agreements, state GO Bond law, and knowledge of both DHS and MMB contract procedure.

In recent years, for projects assigned to DHS, staff has taken on many additional duties. For example, staff must: conduct bill analysis that assures a given project adheres to state bond fund laws; serve as the lead coordinator for a multi-agency, jurisdictional team including MMB, Department of Administration, local government's Economic Development staff and legal counsel, and land developer's legal counsel; work closely with MMB on review and analysis of funding streams and bank closing procedures on multi-million dollar projects; assure that the construction project has full funding, be it through matching funds or accounting for cost overruns; assure the completion of predesign/design documentation including review of HVAC and energy conservation standards; review ultimate program use for the facility; and collect site use data to monitor yearly for 6 years following completion of the project.

Current DHS Capacity

DHS currently has one full time employee with the skills and experience to manage projects of a capital nature, working in the Children and Family Services Administration Office of Economic Opportunity. The position was initially established to manage the Department's grant program for development of early learning facilities.

Over time, additional projects have been added. In the 2017 bonding bill, DHS was assigned the responsibility for managing an additional six projects of a capital nature at a total value of over \$20 million. No additional resources were provided to manage the new projects. Today, the one DHS employee manages a total of 17 projects of a capital nature.

Proposals for Additional Projects of a Capital Nature

Below is a list of legislation that has been introduced during the 2017-18 sessions that would make DHS responsible for managing additional projects of a capital nature, which have not been separately fiscal noted.¹

Bill	Description	Potential # of Projects
HF4032/SF3578	Greater Minnesota child care facility capital grant program bond issue and appropriation. Appropriates \$5 million in G.O. bonds and \$5 million from the G.F.	20
HF3537/SF3045	White Earth Opiate Treatment Facility refurbishment funding provided, and money appropriated. Appropriates an unspecified amount from the G.F.	1
HF3388/SF2990	Safe Harbor emergency shelter and housing capital projects funding provided, and money appropriated. Appropriates \$2.47 million from the G.F.	3
HF3211/SF3597	St. Louis Park; Perspectives Family Center expansion and renovation funding provided, and money appropriated. Appropriates \$4 million from the G.F.	1
HF3004/SF3052	Scott County; regional intensive residential treatment services and crisis stabilization facility funding provided, bonds issued, and money appropriated. Appropriates \$1.4 million in G.O. bonds.	1
HF2966/SF2727	Family Tree Clinic funding provided, and money appropriated. Appropriates \$900,000 from the G.F.	1
HF2801/SF2557	Family Partnership facility prior appropriation modified, bonds issued, and money appropriated. Appropriates \$10 million in G.O. bonds.	1
HF0517/SF0551	Hennepin County; regional medical examiner's facility funding provided, bonds issued, and money appropriated. Appropriates \$25.9 million in G.O. bonds.	1
Total Number of Potential Additional Projects		29

Resource Needs of the Department to Proposed Projects

¹ HF 2274/SF 2161 would issue bonds for the development of regional behavioral health crisis facilities. This bill is the subject of a separate fiscal note.

The amount of work involved in managing projects of a capital nature varies depending on, among other things, the scope of the project, the cost of the project, the project partner (local government or non-profit entity) and the potential use of the facility. Other factors include the following:

- Local government and private entities vary greatly in terms of technical assistance needed
- End grants differ from construction grants with monthly/quarterly pay requests
- Up-front grant agreement work increases with use agreements, complex financing , and MMB cooperation
- Project load builds over time, with ongoing monitoring, and yearly administrative tasks

Based on our best estimates, we assume that one FTE with proper skills and experience can effectively manage 15 projects. Our current staff is over capacity with managing 17 projects. In order to adequately manage any new projects of a capital nature at DHS, the Legislature will need to appropriate funding for additional staff.

Based on a total of 29 new projects, we assume the following costs associated with the need for two FTEs in the Human Services Program Representative 2 class. We assume that these FTEs would be needed to start July 1, 2018. We also assume that these staff will be ongoing as projects often take several years to complete, and based on recent experience additional projects will be added.

Staffing Line Item	FY2019	FY2020	FY2021
Tracking (\$000's)			
BACT 12 Staffing Cost	\$224	\$195	\$195
Less Admin FFP @ 35%	\$(78)	\$(68)	\$(68)
Net Cost	\$146	\$127	\$127

Staffing needs can be prorated based on an assumption of one FTE for each 15 projects. I ask that if you fund any of the above referenced capital projects or any other projects that you fund appropriate staffing resources at DHS so that the projects can be properly managed.

If you have questions or would like to further discuss the issues raised in this letter, please contact Dave Greeman at 651-431-3432. I appreciate your attention to this important issue. I look forward to working with you to ensure a successful completion of the 2018 legislative session.

Sincerely,



Charles E. Johnson
Acting Commissioner

April 9, 2018

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

The Honorable Carrie Ruud, Chair
Senate Environment and Natural Resources Policy
and Legacy Finance Committee
Minnesota State Senate
3233 Minnesota Senate Building
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The Honorable Chris Eaton, Ranking Minority Member
Senate Environment and Natural Resources Policy and
Legacy Finance Committee
Minnesota State Senate
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The Honorable Dan Fabian, Chair
House Environment and Natural Resources Policy
and Finance Committee
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The Honorable Rick Hansen, DFL Lead
House Environment and Natural Resources Policy and
Finance Committee
Minnesota House of Representatives
247 State Office Building
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St. Paul, MN 55155

RE: SF2983/HF3280 Wild Rice Water Quality Standards

Dear Legislators:

Due to legal constraints, the Minnesota Pollution Control Agency (MPCA) has provided very limited testimony concerning these bills related to Wild Rice Water Quality Standards. On March 27, 2018, the Agency provided our formal response to the Chief Administrative Law Judge (ALJ) concerning the January 11, 2018 report. The Agency's response is public information and the complete filing can be viewed at <https://www.pca.state.mn.us/sites/default/files/wq-rule4-15nn.pdf>.

I write today to articulate my concerns about this legislation, which would prevent the MPCA from moving forward with the rulemaking to revise Minnesota's water quality standard to protect wild rice from the adverse impacts of sulfate.

SF2983/HF3280 prevents the MPCA from using sound, verified science to effectively and efficiently protect wild rice – a critical Minnesota resource. Furthermore, the legislation would:

- Short-circuit the administrative rulemaking process and stop the current wild rice rulemaking activity (which was undertaken at legislative direction);

- Waste the significant investment of state resources in understanding the science of sulfate impacts on wild rice;
- Nullify the existing federally-approved wild rice sulfate standard, setting up a conflict between state and federal law that would undoubtedly be the source of litigation;
- Jeopardize Minnesota's delegation of Clean Water Act program authority from the U.S. Environmental Protection Agency (EPA); and
- Exacerbate the existing regulatory uncertainty around the standards that apply to water quality discharges.

In 2011, the Minnesota Legislature directed the MPCA to update the existing sulfate water quality standard to protect wild rice. We have done just that. Extensive scientific studies were conducted including experiments in the laboratory, outdoor systems, and more than 100 lakes and streams across Minnesota. Those studies were peer reviewed by independent scientific experts and published in international scientific journals. The findings are clear: sulfate **does** impact wild rice. Further, the *way* sulfate harms wild rice is much more complicated than had been earlier understood.

We learned that sulfate in the water transforms to sulfide in water of river and lake sediments, and that sulfide harms wild rice when it reaches levels above 120 parts per billion. That process is affected by the amount of carbon and the amount of iron in the sediment; lakes right next to each other can have very different levels of carbon and iron in their sediment.

Because it's not just sulfate but also carbon and iron that have a role in affecting wild rice, we proposed to revise the standard to an equation that accounts for these additional players. Since each water body's sediment is different, an equation-based standard is much more precise, and therefore more accurate, because it accounts for that natural variability. In fact, equation-based water quality standards are becoming more common across the U.S. due to their improved precision in protecting water quality.

My specific concerns with the bill are as follows:

First, the bill is based on the faulty idea that the science of wild rice and sulfate is not yet settled. Two international scientific journals have reviewed and published four articles based on our science, providing independent scientific confirmation of the validity of our work¹. This research was also highlighted in the following publications of the American Geophysical Union (AGU) and Ecological Society of America:

¹ Myrbo, A., Swain, E.B., Engstrom, D.R., Coleman Wasik, J., Brenner, J., Dykhuizen Shore, M., Peters, E.B. and Blaha, G., 2017. Sulfide generated by sulfate reduction is a primary controller of the occurrence of wild rice (*Zizania palustris*) in shallow aquatic ecosystems. *Journal of Geophysical Research: Biogeosciences*. 122: 2736-2753.

Myrbo, A., Swain, E.B., Johnson, N.W., Engstrom, D.R., Pastor, J., Dewey, B., Monson, P., Brenner, J., Dykhuizen Shore, M. and Peters, E.B., 2017. Increase in nutrients, mercury, and methylmercury as a consequence of elevated sulfate reduction to sulfide in experimental wetland mesocosms. *Journal of Geophysical Research: Biogeosciences*. 122: 2769-2785.

Pastor, J., Dewey, B., Johnson, N.W., Swain, E.B., Monson, P., Peters, E.B. and Myrbo, A., 2017. Effects of sulfate and sulfide on the life cycle of *Zizania palustris* in hydroponic and mesocosm experiments. *Ecological Applications*. 27(1): 321-336.

Pollman, C.D., Swain, E.B., Bael, D., Myrbo, A., Monson, P. and Shore, M.D., 2017. The evolution of sulfide in shallow aquatic ecosystem sediments: An analysis of the roles of sulfate, organic carbon, and iron and feedback constraints using structural equation modeling. *Journal of Geophysical Research: Biogeosciences*. 122: 2719-2735.

- October 6, 2017, Research Spotlight at Earth and Space News, sponsored by AGU (62,000 members from 144 countries).
<https://eos.org/research-spotlights/north-american-wild-rice-faces-sulfide-toxicity>
- March 1, 2018, issue of *Frontiers in Ecology and the Environment* (a journal sent to all members of the Ecological Society of America, 10,000 members worldwide).
<https://esajournals.onlinelibrary.wiley.com/doi/10.1002/fee.1772> (scroll down to 9th item in *Dispatches*)

By contrast, an industry-funded study cited by proponents of this legislation² was not highlighted as significant new research by these highly respected scientific organizations.

The robustness of the science of sulfate/sulfide and wild rice was recognized also in the January 11, 2018, ALJ report, which found that:

- “the MPCA presented sufficient evidence to demonstrate that there is an adequate scientific basis to conclude that the proposed equation-based sulfate standard is supported by peer-reviewed science and is needed and reasonable;”³
- “the MPCA demonstrated...that it could rationally choose to proceed with the equation-based sulfate standard from a scientific standpoint;”⁴ and
- “that the science underlying the equation-based standard is reasonable in that it describes a manner of calculating a sulfate level resulting in a level of sulfide in porewater protective of wild rice.”⁵

Some testifiers have noted that in one series of scientific experiments, wild rice was only negatively impacted by very high sulfate or sulfide concentrations, much higher than the levels of concern identified by MPCA in the proposed rulemaking. The testifiers incorrectly cite this as evidence that sulfate and sulfide do not harm wild rice. In truth, those experiments focused on only one stage of the wild rice growing cycle. But when it comes to the survival of wild rice, all growth stages matter. Other studies clearly showed sulfate/sulfide impacts to wild rice at different growth stages and across multiple years. Sound science is not based on cherry-picking research to support a desired conclusion. It involves looking at **all** the available information and drawing conclusions based on these multiple lines of evidence.

Second, the bill prohibits the use of this new science regarding sulfate and wild rice – science that Minnesotans helped pay for through the Clean Water, Land, and Legacy Amendment funding. The bill goes on to prohibit the application of the older science on wild rice and water quality by voiding the existing standard, leaving us with no science upon which to base our water quality protection of wild rice. While the MPCA has proposed a more precise equation-based standard, the science has shown that if a single fixed standard is to be used, 10 milligrams per liter (mg/L) is a protective, appropriate, and

² Fort, D. J., M. B. Mathis, R. Walker, L. K. Tuominen, M. Hansel, S. Hall, R. Richards, S. R. Grattan, and K. Anderson. 2014. Toxicity of sulfate and chloride to early life stages of wild rice (*Zizania palustris*), *Environmental Toxicology and Chemistry*. 33(12), 2802-2809.

Fort, D.J., K. Todhunter, T.D. Fort, M.B. Mathis, R. Walker, M. Hansel, S. Hall, R. Richards, and K. Anderson. 2017. Toxicity of sulfide to early life stages of wild rice (*Zizania palustris*). *Environmental Toxicology and Chemistry*. 36:2217-2226. DOI: 10.1002/etc.3759

³ Report of the Administrative Law Judge, January 11, 2018, Finding 251, p. 60.

⁴ *Id.* at Finding 256, p.61.

⁵ *Id.* at Finding 257, p. 61.

reasonable choice. In other words, despite the testimony given in committee, the MPCA's work **does not** discredit the 10 mg/L existing standard.

Third, this bill creates a conflict with federal law by removing the wild rice water quality standard without replacing it with something at least as protective. Under the federal Clean Water Act, water quality standards must be set based on what is needed to protect the designated uses of waterbodies. In this case, the designated use of wild rice is food for people and wildlife. Under the federal Clean Water Act, once a standard is established it **cannot be changed** without a demonstration that the replacement standard is equally, or more, protective. As EPA noted in a May 13, 2011 letter to legislative members:

“To the extent that any legislation changes the EPA-approved water quality standards for Minnesota, such revised water quality standards must be submitted to EPA for review and approval ... Federal regulations require that criteria be protective of a state's designated uses and EPA's approval is based, among other factors, on determining that there is a scientifically defensible basis for finding that the criteria are sufficient to protect designated uses (see generally 40 C.F.R. §§ 131.5, 131.11, and 131.21). Absent such a showing, EPA would be unable to approve a revised criterion (see generally 40 C.F.R. §13 I.6(b)).”

This conflict creates multiple unintended consequences, including:

- Inability for MPCA to issue permits that comply with state law and the federal Clean Water Act.
- EPA recapture of regulatory authority, which moves water quality standards and permitting decisions away from the MPCA to Chicago or Washington, D.C. This is something most Minnesotans would not favor.
- Third party lawsuits over individual permits, leading to uncertainty and delay for permittees, particularly new or expanding businesses and growing cities. Litigation is always costly for the taxpayers.

Lastly, Section 7 presents a problem that has not been raised or discussed in legislative committees. This section would invalidate the water quality standards for irrigation except in cases where there is a clear water appropriation for irrigation purposes. There are existing rules to ensure that water used to irrigate crops will not harm those crops or soil. The MPCA is currently working to update these water quality standards. This update is needed, and it is also controversial. The initial request for comments generated nearly 500 comments. The MPCA is in the process of refining our rule proposal and planning for additional public process. Section 7 of the bill short-circuits this separate rulemaking process, and instead mandates an approach that is not implementable. Thus, this bill could hamper or eliminate our ability to protect the quality of water that is used to irrigate Minnesota's agricultural crops.

MPCA has long recognized that sulfate is not the **only** stressor that can harm wild rice. Just like high blood pressure is not the only risk factor for heart disease (cholesterol, weight, and lack of exercise being others), sulfate is not the only threat to wild rice (others include water level, climate change, and invasive species). But a doctor would never wait until a patient lost weight before prescribing blood pressure medication. Similarly, it does not make scientific sense to avoid addressing sulfate impacts because we have not yet adopted a standard or strategy to address water level fluctuation. In environmental protection, as in medicine, we apply the knowledge that we have, and as we gain more knowledge and tools we apply these as well.

April 9, 2018

Page 5

The MPCA is also aware of the major concerns about the cost that would result from treating wastewater discharges to reduce sulfate to comply with any proposed sulfate standard. Those concerns are real, and we take them seriously. However, it is absolutely not true that all facilities would be required to treat their wastewater to meet the wild rice sulfate standard. Only about 25% of the proposed wild rice waters are downstream of wastewater discharges, and at least some of those waters are not being negatively impacted by the upstream discharges. In other words, not all facilities that discharge to wild rice waters will need to reduce their sulfate discharge to protect wild rice.

For facilities where sulfate discharge is a concern, we will address cost in the way that federal and state law require: during the *implementation* of the standard -- permits. Under the federal Clean Water Act, water quality standards must be based on the science of protection. Permits are where cost is addressed, through variances, extended timelines, and other tools. We know reverse osmosis, the only way to remove salts like sulfate, is expensive and generally unaffordable. And contrary to some testimony, MPCA does have a track record of issuing variances where treatment costs are prohibitive as defined by the federal Clean Water Act. The MPCA is committed to working with facilities through permit implementation to avoid adverse economic impacts until new technology makes salt removal affordable. Hopefully, that new technology will come from Minnesota-made innovations.

I ask that you support science-based standards and oppose SF2983/HF3280.

Sincerely,

A handwritten signature in black ink that reads "John L. Stine". The signature is written in a cursive, slightly slanted style.

John Linc Stine
Commissioner

JLS/SL/GG/CN:rm

cc: The Honorable Paul Gazelka, Majority Leader, Minnesota State Senate
The Honorable Thomas Bakk, Minority Leader, Minnesota State Senate
The Honorable Kurt Daudt, Speaker of the House, Minnesota House of Representatives
The Honorable Melissa Hortman, Minority Leader, Minnesota House of Representatives
Joanna Dornfeld, Governor Dayton's Office
Erin Campbell, Governor Dayton's Office
Anna Henderson, Governor Dayton's Office
Stephanie Zawistowski, Governor Dayton's Office

April 10, 2018

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

Dear Representative Garofalo:

On behalf of the Minnesota Department of Employment and Economic Development (DEED), I am writing to provide feedback on HF 4342 (Knoblach).

As you know, on January 30, 2018, Electrolux announced that they will be closing their St. Cloud plant permanently by the end of 2020. This closure will have a devastating impact on the almost 900 workers, their families and the St. Cloud community. DEED is committed to working with the community and Electrolux to assist in lessening the impact by transitioning workers to other suitable employment and education opportunities.

Since the announcement, DEED staff have been working with Electrolux and the City of St. Cloud to develop clear next steps. DEED staff is currently wrapping up the collection process of employee surveys, which counselors will use to help to identify the best course of action for job searches or re-training opportunities. In efforts to capitalize on all available resources, DEED staff filed a Trade Adjustment Assistance petition which could provide additional federal funding for employees. The following is a summary of the current process for implementing state dislocated worker services:

Step One: Conduct an Initial On-site Meeting with the Employer (Completed)

We meet with the employer management and union leaders to learn the details of the layoff. We offer layoff aversion options and explain the Rapid Response program and what we can do to assist employees during the process.

Step Two: Informational Meetings with Workers (Completed)

Meetings occur at the worksite with workers and the Rapid Response Team. The SRRT held seven meetings at Electrolux April 3-4, 2018 and collected 690 DW surveys, with 83 employees indicating they wanted interpreter services and translated materials. Electrolux is collecting surveys from people who could not attend the meetings and we have a deadline of 4-11-18 for handing those in. During informational meetings the team offers an overview of services and recruits volunteers to a Planning and Selection Committee. The committee members are chosen from those who volunteered and represent the diverse makeup of the workforce. In the first meetings with employees we also provide unemployment insurance information and ask employees to fill out a needs survey. The survey is used to assess workers' education and job search needs such as their level of education, hours worked, years of experience, wages, etc. The SRRT compiles the answers from the surveys and shares them with the selected Dislocated Worker service provider. That way counselors can advise the workers on the best course of action for job searches or re-training efforts.

Step Three: The Planning and Selection Committee Meets (TBD)

Under the guidance of our team, the committee identifies worker needs and how they match with services offered by the service providers competing in this project. The committee chooses the Dislocated Worker program service provider to deliver services to employees facing the layoff.

Step Four: The Committee and Provider Refine a Grant Proposal

While services are underway, the committee and the service provider will collaborate on a grant application to the state. The grant will pay for the provider's service. We approve the grant in order for the provider to be paid.

In addition to the SRRT procedures designed to get services directly to the workers quickly, the team works closely with our local partners in Economic Development about how to best transition workers into suitable employment as quickly as possible after the layoff. Moreover, the SRRT is available to support community strategies and share best practices from other communities as needed. The goal is to do as much as possible to support the St. Cloud community and continuously look for resources to service and provide assistance to the workers and community as a whole.

With respect to HF 4342, we support Representative Knoblach's leadership and commitment to assist his community as they navigate this critical situation. We are committed to working with him on this bill, thus would like to provide details on a number of policy, timing and technical issues in HF 4342 which are outlined below:

Bill Issues:**Circumvents the Employee Driven Process:**

The bill chooses a provider for the employees instead of empowering the employees to choose their own service provider based on worker needs and the services offered by the service providers. When the project is deemed competitive, the current process is to have a Planning and Selection Committee, comprised of employees, choose the Dislocated Worker program service provider to deliver services to employees facing the layoff.

The bill further sets a precedent for all service providers to circumvent the employee-driven process and instead request earmarked funding from the legislature. This could cause a variety of funding complications for layoffs earmarked and not earmarked, particularly in an economic downturn. To that end, there have been a number of mass layoffs announced this year throughout the state: Bellisio Foods in Austin, Elkay Manufacturing in New Ulm and BON TON Stores (Herberger's & Yonkers) in Duluth and the Twin Cities. DEED has received 40 mass layoff notices since January 1, 2018, with 4,000 people potentially affected, and our ability to serve employees with sufficient funding could be impacted by a process of earmarking funding for particular layoffs.

Funding Levels and Multiple Service Providers:

Based on our estimates, the funding allocated in this bill is inadequate to serve the employees at Electrolux, and the bill's legislative intent seems to be to serve Electrolux employees as well as employees "in related industries affected by its closure." This likely funding shortfall could have a number of impacts. It could lead to two service providers serving this layoff, one funded from this earmark and one funded through the competitive employee-driven process. It could also lead to Career Solutions receiving two grant awards, one following the appropriation language and one following the Dislocated Worker statute, which differ in a number of significant ways. Finally, the Dislocated Worker statute provides flexibility, which allows for modifications to the grant amount after the initial allocation, but the legislative language provides no such flexibility, potentially causing complications in the future.

Creates Services Timing Gap:

Bill language requires the delivery of service to affected workers before December 31, 2018 at the latest (line 1.15). The company anticipates the closure to occur in late Q4 of 2019 and Q1 of 2020 which creates a gap of over a year between when the delivery of services funded by this bill are rendered and employees are likely to be laid off.

Technical Challenges:

Line 1.14 requiring application for federal wavers:

There seems to be some confusion between the state and federal dislocated worker programs. In relation to this bill, the state Dislocated Worker requirements are established in state statute and policy. Waiving the eligibility requirements could happen administratively with the approval of the MJSP Board. There are at least two other instances of this occurring in the past for similar long-lead layoffs, therefore no federal waiver is needed to provide services under this legislation.

“Related Industries” Language:

Line 1.10 – 1.11 in the bill earmarks funds for the Electrolux plant and in related industries affected by its closure. Typically we serve workers in mass-layoffs as projects. Electrolux would be their own project. Any subsequent industries that had layoffs would be served as they announced layoffs and as individual projects. Typically we do not do “community impact” grants. Under this bill we would need more specific parameters around “related industries” to define that language.

As stated, DEED is committed to working with Electrolux, employees, their families and the St. Cloud community to lessen the impact of this closure. We look forward to working with you to this end and encourage you to reach out to May Thao Schuck, DEED’s Director of Employment & Training Programs at 651-259-7563 if you have questions about our State Rapid Response process or activities. We look forward to working with you further to assist the St. Cloud community.

Regards,



Shawntera Hardy
Commissioner

April 12, 2018

The Honorable David Osmek, Chair
Senate Energy and Utilities Finance and Policy Committee
95 University Avenue W.
Minnesota Senate Bldg., Room 2107
Saint Paul, MN 55155

Dear Chairman Osmek:

I write to express the Commerce Department's opposition to SF 3510. This bill exempts Enbridge's Line 3 Pipeline proposal from the Public Utilities Commission (PUC) Certificate of Need and Routing Permitting process.

First, Commerce opposes SF 3510 because the PUC is the appropriate venue for the decision about whether Line 3 should be built. Thousands of Minnesotans, State Agencies, Enbridge, Tribal Governments, Labor, environmental groups, the Administrative Law Judge, and other stakeholders have all participated to provide input into this important decision. The PUC is charged with weighing all of the information it has received in a judicious and objective manner, based on facts associated with need, impact and benefit to the State.

Second, Commerce has concerns with SF 3510's provision allowing Enbridge, at its sole discretion, to construct the Line 3 pipeline on its preferred route. Not only does this provision negate the routing process, but it also allows Enbridge to acquire land through eminent domain for a private commercial purpose. SF 3510 disregards tribal treaty rights and the wishes of other private landowners and allows Enbridge to construct Line 3 on its preferred route without regard to the impact the route would have on the surrounding environment. The Environmental Impact Statement (EIS) process that is currently underway at the PUC allows for independent, scientific evaluation of the proposed project and project alternatives to identify the route with the least environmental, economic, and sociological impacts. It is irresponsible to allow Enbridge to build Line 3 before this process is completed when Enbridge's preferred route may not be in the best interest of Minnesotans. Decisions on route alternatives are best dealt with in an impartial venue like the PUC as opposed to a private business or the legislature.

Third, circumventing the permitting process may put Minnesotans at risk. In this case, risks include accidental releases of toxic and combustible materials from pipeline failures or hostile actions. This is of great concern since SF 3510 does not address oil-spill clean-up assurances or financial assurances to the State and citizens that could otherwise be addressed in a route permit issued by the PUC.

The Honorable David Osmek

April 12, 2018

Page Two

Finally, under SF 3510 Minnesota landowners, businesses, communities, and residents may end up with a pipeline project they do not need. The Certificate of Need and Routing Permit processes at the PUC seek to avoid the building of unnecessary and costly facilities in our State. Only the PUC can take into account all of the facts, data, science, and technical expertise that has been developed and shared about this project and provide a determination about whether the Line 3 project is needed for the benefit of Minnesota.

Thank you for considering Commerce's opposition to SF 3510. I hope this information is helpful to the members of the Jobs Growth and Energy Affordability Committee and I urge the Committee to vote against this bill.

Sincerely,

A handwritten signature in blue ink that reads "Jessica Looman". The signature is written in a cursive, flowing style.

Jessica Looman
Commissioner



April 12, 2018

The Honorable Greg Davids
Minnesota House of Representatives
585 State Office Building
St. Paul, MN 55155

The Honorable Roger Chamberlain
Minnesota Senate
3225 Minnesota Senate Building
St. Paul, MN 55155

Dear Representative Davids and Senator Chamberlain:

The Department of Human Services, Department of Commerce and MNsure write to express our opposition to HF 3543/SF 3392. This bill prohibits Governor Dayton's proposal for a MinnesotaCare Buy-In, cuts MNsure's budget by twenty-five percent, eliminates MNsure's authority to choose which plans are sold on the exchange, and requires the Department of Commerce to seek a federal waiver allowing individuals to purchase health insurance and receive advanced premium tax credits (APTC) outside of the exchange.

Taken as a whole, this bill undercuts Minnesotans' present and future options for affordable health insurance coverage, and works against our efforts to help Minnesotans get the health care they need. Our specific concerns are outlined below.

Sincerely,

A handwritten signature in black ink that reads "Jessica Looman".

Jessica Looman
Commissioner, Department of Commerce

A handwritten signature in black ink that reads "Charles E. Johnson".

Charles E. Johnson
Acting Commissioner, Department of Human Services

A handwritten signature in black ink that reads "Allison O'Toole".

Allison O'Toole
Chief Executive Officer, MNsure

Prohibits the MinnesotaCare Buy-In

This bill prohibits Governor Dayton's MinnesotaCare Buy-In, which proposes a new comprehensive, affordable health insurance option for Minnesotans. The "Buy-In" would leverage the state's public health care program-purchasing power to get better value for individual-market consumers and the state. This proposal builds on the successful legacy of the bipartisan MinnesotaCare program, which is known for providing health insurance for those who earn too much to qualify for Medicaid but have difficulty affording health care. The MinnesotaCare Buy-In would offer additional coverage for dental, vision and behavioral health care. Enrollee premiums paid to DHS would be sufficient to fund coverage costs.

HF 3543/SF 3392 will limit the number of affordable options for Minnesotans who are facing steep premiums and high out-of-pocket costs. The 2016 Health Care Financing Task Force, a bipartisan group of leaders and experts, recommended expanding MinnesotaCare to increase health care affordability for Minnesotans. We encourage you to review the recommendations made by the Task Force as HF 3543/SF3392 are considered.

Cuts MNsure's Premium Withhold from 3.5 to 2 Percent

As you are aware, over half of MNsure's budget is funded by premium withhold revenue (the rest is through reimbursements from DHS for work done on public programs). Cutting MNsure's premium withhold from 3.5 to 2 percent (a 43 percent cut to the premium withhold) would result in a 25 percent cut to MNsure's overall budget, reversing much of the progress made over the last few years and resulting in fewer Minnesotans getting the health coverage they need.

During the last open enrollment period, more than 115,000 Minnesotans signed up for coverage through MNsure and call wait times averaged less than 10 seconds. The proposed cut would result in longer wait times for consumers, delays in processing enrollments and life events, eliminate MNsure's ability to make improvements to the IT system, and impair the ability to work and interact with insurers.

Ultimately the effects of a 25 percent reduction to MNsure's budget would affect nearly all areas of MNsure's business, and Minnesotans needing to purchase coverage will suffer the impact of those cuts.

Eliminates MNsure's authority to choose which products are sold on the exchange

Eliminating this authority would leave Minnesotans at the mercy of federal regulators and health insurance companies when determining what products are sold on the exchange. This purchasing authority allows the exchange to address specific issues facing Minnesota through benefit design, transparency requirements, quality and delivery. Given the rising cost of health care and narrowing of provider networks, it is important for states to have the ability to negotiate on cost and spark competition between insurance companies. This authority is an important tool Minnesota can use to help make health insurance work for Minnesotans.

Requires the Department of Commerce to seek a federal waiver allowing individuals to purchase health insurance and receive advanced premium tax credits (APTC) outside of the exchange.

Eligibility determinations and tax credit administration outside of MNsure's exchange threaten the integrity of over \$300 million in annual tax credits. Currently, there is a rigorous eligibility determination system to ensure Minnesotans receive the full APTC amounts they are due while also serving as responsible stewards of federal dollars.

Allowing APTC to be accessed off-exchange could result in lax oversight of annual tax credit payments, put private consumer information at risk, and result in unknown costs to the state and federal government. It would also undermine one of the fundamental premises of an exchange, which is to provide consumers with a transparent and unbiased place to access information when selecting the right health coverage for them and their family.

Section 1332 of the Affordable Care Act (ACA) allows states to apply for waivers to implement policies that provide access to health care at least as comprehensive and affordable as would be provided absent the waiver. Under the ACA, a waiver will only be approved if it does not increase the federal deficit. Federal regulators have previously communicated to the state that an application of the nature contemplated by the bill would not likely result in an approved waiver because it could require substantial changes to federal administrative processes resulting in an increase of the federal deficit. Given these policy and technical considerations, it is unlikely that this proposal will result in our shared goal of helping more Minnesotans who are eligible for tax credits access that assistance.

April 16, 2018

The Honorable Jeff Backer
593 State Office Building
Saint Paul, MN 55155

The Honorable Jeremy Munson
421 State Office Building
Saint Paul, MN 55155

The Honorable Jim Newberger
371 State Office Building
Saint Paul, MN 55155

Dear Representatives Backer, Newberger, and Munson:

I write today in strong opposition to H.F. 2887, a bill which prohibits the Department of Agriculture's implementation of the Groundwater Protection Rule – a rule the Department has worked on since 2015, in an effort to protect the health of all Minnesotans. This proposed rule has been informed by (and significantly modified based upon) input gathered from more than 1,500 farmers and other Minnesotans at 17 public meetings around the state, and 820 formal written comments. It is now the Department's responsibility under state law to continue that process of public engagement to promulgate a rule in the best interest of all Minnesotans.

The Department has the authority and the responsibility to prevent and mitigate nitrate contamination in Minnesotan's drinking water under the Groundwater Protection Act, passed in 1989. It is critical that we work together to prevent nitrate contamination of drinking water for all Minnesotans – our farmers, landowners, families, and children. As you are well aware, high levels of nitrates in drinking water pose serious health risks to humans, especially young children.

The legislation you have proposed would undermine the Department's authority under the Groundwater Protection Act, and prevent us from working with farmers and landowners to establish standards that would responsibly protect our drinking water and safeguard the health of Minnesotans. I strongly encourage you to allow the Department to proceed with our public rulemaking process established by state law; and give farmers, families in rural areas, and all Minnesotans the opportunity to review and understand the rule and provide their comments to the Department.

From the start, I have been committed to working with all stakeholders, and providing as much transparency as possible in the rulemaking process. Under my direction, the Department released an informal draft of the Groundwater Protection Rule to solicit input from farmers and other Minnesotans to shape our approach to protecting drinking water across Minnesota. This informal draft and public engagement were not required as part of the rulemaking process, but a good faith effort on behalf of the Department to do our due diligence before even beginning the formal rulemaking process.

Representative Jeff Backer
Representative Jim Newberger
Representative Jeremy Munson
April 16, 2018
Page 2

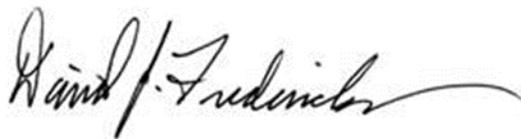
There has been robust public engagement during the entire process. In addition to the outreach described above, I have informed the Governor that my staff and I will travel the state this summer to reach as many farmers and Minnesotans as possible to provide information about how to participate in the rulemaking process so that their voices will continue to be heard. I invite your participation as we hold meetings across the state to ensure that your constituents have opportunities to engage on this important issue.

On March 6, I joined Governor Mark Dayton in releasing the revised framework of the Rule. Since then, my staff has worked diligently to produce the required documents called for under Chapter 14, the Administrative Procedures Act. On April 13, the Department provided the Governor a copy of the Groundwater Protection Rule language and the Statement of Need and Reasonableness (SONAR) as required by statute. Without delay, the Governor signed off on the Rule and SONAR, and has released these documents to be sent to the Office of Administrative Hearings, as required by statute. I will provide the legislature with a copy of the Rule and the SONAR when it is sent to the State Register.

If the Legislature passes H.F. 2287, I will strongly recommend to the Governor that he veto the bill. The hard work my staff has put into this process should be allowed to continue. We have worked on this issue for many years, and it is time to address the challenge of nitrates in our groundwater before the problem is too far out of hand.

As leaders, representing our constituents and Minnesotans, we have the legal and moral obligation to protect Minnesota's drinking water. I look forward to working with you as the Department moves forward with the rule-making process and invite your thoughtful partnership.

Sincerely,

A handwritten signature in black ink, reading "David J. Frederickson". The signature is written in a cursive style with a long, sweeping underline that extends to the right.

David J. Frederickson
Commissioner

CC:
Governor Mark Dayton
Speaker Kurt Daudt
Minority Leader Melissa Hortman
Minnesota House Legislators



400 Wabasha Street North, Suite 400
St. Paul, MN 55102

P: 800.657.3769

F: 651.296.8139 | TTY: 651.297.2361

www.mnhousing.gov

April 16, 2018

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

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

RE: DE Amendment, SF 2893, Omnibus Agriculture, Rural Development and Housing Finance Bill

Dear Legislators,

We appreciate the opportunities we have had to present to the Agriculture, Rural Development and Housing Finance and Policy committees this session. I am writing to provide comments from Minnesota Housing on the committee's omnibus bill.

Homework Starts with Home

The Governor included \$4 million in his supplemental budget for Homework Starts with Home and made the program permanent. This funding would help provide stable housing for 500 families, including an estimated 1,000 Minnesota kids. This initiative builds on the success of a pilot program that created housing stability for 90 percent of participants and strengthened attendance for students. There is statewide need for this funding. In the 2016-17 school year, students facing homelessness attended 1,241 different schools located across 77 of Minnesota's 87 counties. Unfortunately the Senate omnibus bill does not include funding for Homework Starts with Home. We hope that as the budget process continues, the committee will consider funding this important initiative.

Tax-Exempt Bond Reform

The bill includes SF 3700 which pertains to tax-exempt bond reform. A work group of housing stakeholders met over the course of the summer and fall last year and agreed to five consensus items that should make up any bond reform package. These five items are reflected in the omnibus bill. With some technical changes, which will be outlined in detail for the committee in a joint letter from Minnesota Housing and Minnesota Management and Budget, we believe these consensus items will have a positive impact and produce additional affordable rental units. We will continue to work with the authors to address the technical changes.

Manufactured Home Park Infrastructure and Acquisition

This bill includes several provisions to allow funding for manufactured home park infrastructure and acquisition of manufactured home parks:

- It establishes manufactured home parks as eligible applicants for the Challenge program and makes financing for manufactured home parks an eligible activity
- It establishes the financing of acquisition, improvement and infrastructure of manufactured home parks as an eligible use of Housing Infrastructure Bond proceeds
- It establishes acquisition of manufactured home parks as an eligible use of the Manufactured Home Park Redevelopment Program, a program which has not received appropriations since 2001

While the bill makes all of these statutory changes, it does not include any additional appropriations to meet these needs. We believe that manufactured housing is an important affordable housing resource and that an appropriation is the best way to fund manufactured home park acquisition and infrastructure. An appropriation is a flexible funding tool that can meet time-sensitive infrastructure or acquisition needs. Housing Infrastructure Bonds are a complex funding tool that requires advanced planning and specific plans for use and are likely not the best fit for financing manufactured home park infrastructure and acquisition.

Housing Affordability Fund

We have serious concerns about Section 42 of the bill on lines 43.8 to 43.13, which requires the Agency to designate 10 percent of housing affordability fund (pool 3) dollars for single family homeownership development in cities with fewer than 10,000 residents and for manufactured housing projects.

The Minnesota Housing statute, under the provisions of 462A.04, vests management and control of the Agency solely in the Agency's Board of Directors. The Board approves the Agency's financing and policy decisions. In some previous years, the Agency has designated financial resources generated from its financing activities to fund activities that are allowed under provisions of 462A. These resources, if any, are determined on an annual basis following the completion of the Agency's annual financial audit and after taking into account the capital requirements imposed by rating agencies to retain the Agency's credit ratings. Such resources have been referred to by the Agency as its housing affordability fund (or pool 3). We have significant concerns that Section 42 of the bill would take away the control that is vested in the Agency's Board by statute, and, as a result, could negatively affect the Agency's long-term financial soundness and stability as well as its credit rating. It is important to the Agency and the credit rating agencies that the Board maintain its ability to manage agency resources and to sustain the Agency's financial soundness and stability.

While we do not oppose the activities proposed in Section 42 of the bill, we believe that if the Legislature would like more of these activities to occur, it should consider providing appropriations to do so.

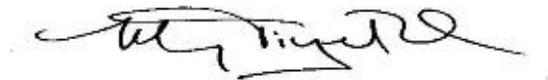
Annually, the Agency uses a public process to establish a program budget, referred to as its Affordable Housing Plan. The Agency's Board adopts the Affordable Housing Plan each year and uses the plan to guide its allocation of resources throughout the year. We encourage those supporting the greater use of Agency resources for manufactured housing and for housing development in communities with a population under 10,000 to submit comments to the Agency as part of the public input process, which will commence in May of this year.

Report on Local Zoning

Lines 43.14 to 43.18 include a requirement for Minnesota Housing to conduct a study on the effects of local zoning decisions that raise the cost of affordable housing development. We understand that costs of housing development are a significant interest to this committee and appreciated the opportunity to present on that topic earlier this session. We would like to have further discussion about whether Minnesota Housing is the agency best-suited to conduct such a study. We are also concerned that there is no funding provided for the study.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Mary Tingerthal". The signature is fluid and cursive, with a large initial "M" and "T".

Mary Tingerthal
Commissioner

cc: Members of the Senate Agriculture, Rural Development and Housing Finance Committee

April 17, 2018

Representative Sarah Anderson
Chair, State Government Finance Committee
301 State Office Building
St. Paul, MN 55155

Re: H.F. 4016 State Government Finance Omnibus bill (DE-Amendment)

Dear Representative Anderson,

The Department of Labor and Industry (DLI) understands the important and critical issue of affordable housing in Minnesota. However, we believe the language that would require additional legislative review of rulemaking for residential building code changes that result in \$1,000 or more on lines 74.22 to 75.18 will not address this issue and should be removed.

We are concerned with the inclusion of this language in the House State Government Finance omnibus bill because it will impose several burdens upon DLI and other agencies, with little to no benefit to the public or the cause of affordable housing for the following reasons:

- 1. Close to all significant cost changes to the residential building code in the past years were due to changes by the legislature and Governor.** DLI has had a minimal impact on changes to the state residential building code that have resulted in increased home costs. Nearly all costly changes in the past eight years to the residential building code were passed on by both the legislature in 2009 (radon mitigation, durability law and window fall protection) and Governor Pawlenty (energy code). This bill language would not address this from happening in the future again.
- 2. The real barriers to more affordable housing are the costs of land, labor, material and municipal land-use regulations.** This was made clear in the bi-partisan Housing Summit and also the Governor's Affordable Housing Task Force this year. Addressing these areas are critical to affordable housing and something DLI has no control over when adopting the residential building code.
- 3) Establishing a \$1,000 threshold is subjective and the result could be contentious.** This language would require DLI to determine if a proposed rule would cost \$1,000 or more. It can be expected this determination will be challenged and the Department will need to hire 1.5 FTE's in order to verify costs of proposed rules to the extent required by this legislation. This will result in the department spending an additional \$187,200 per fiscal year in staffing resources, which DLI believes is an unnecessary cost to taxpayers.

4) It will be difficult to meet the statutory obligation to adopt new model codes within two years. The department already spends months studying changes in the new code with industry stakeholders. It takes many more months to prepare Rulemaking records and justifications for 6 model codes simultaneously. If DLI determines the proposed rule meets the \$1,000 threshold, the entire rulemaking effort will have to be oriented to coincide with the end of the legislative session. If it is not, there is risk of the rule automatically becoming void after 180 days. Then the process would have to begin over again, resulting in wasted staff time and unnecessary costs to the agency.

DLI shares the concern of ensuring housing is affordable to all Minnesotans. However, innovative and effective ways to address this issue is the approach that should be taken versus unnecessary, costly and ineffective methods that impact an already collaborative approach to implementing the residential building code.

I look forward to working with you and staff as this omnibus bill moves ahead in the process. If you have questions, please contact me, Assistant Commissioner Scott McLellan (scott.mclellan@state.mn.us) or Assistant Commissioner Heather McGannon (heather.mcgannon@state.mn.us)

Sincerely,

A handwritten signature in black ink, appearing to read 'KB' followed by a stylized, cursive signature.

Ken Peterson
Commissioner
Minnesota Department of Labor and Industry

cc: Representative Sheldon Johnson



Minnesota Department of Human Services
Acting Commissioner Chuck Johnson
Post Office Box 64998
St. Paul, Minnesota 55164-0998

April 18, 2018

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

The Honorable Paul Gazelka
Senate Majority Leader
Minnesota Senate Bldg., Room 3113
95 University Avenue W.
Saint Paul, Minnesota 55155

Dear Speaker Daudt and Majority Leader Gazelka:

Yesterday the Minnesota Supreme Court issued an order that has significant implications for the Minnesota Sex Offender Program (MSOP) and other Department of Human Services civil commitments. The Supreme Court denied our petition to review an Appeals Court decision from January. That Appeals Court decision (*In re the Civil Commitment of Kirk Alan Fugelseth*) interpreted current law to say that anyone who is civilly committed can be fully discharged if they meet the conditions for a provisional discharge. This is a significant lowering of the bar for a full discharge from a DHS commitment – people committed to the Minnesota Sex Offender Program and people committed to St. Peter Security Hospital as mentally ill and dangerous. A full discharge means the individual is fully free to live in the community with no supervision.

The immediate effect of this is that Kirk Fugelseth, a sex offender committed to MSOP, can leave his current provisional discharge placement and live where he wants. There is no further remedy to address that situation – the Supreme Court review was our last chance to stop his full discharge.

However, we can prevent this from happening in the future. We petitioned the Supreme Court because we believed the Appeals Court misinterpreted the statute. Given the denial of our petition, we need immediate statutory changes to prevent future situations like the Fugelseth case. Rep. Brian Johnson and Sen. Warren Limmer have introduced bills that will fix this problem (H.F. 3782 and S.F. 3673). Both bills are on the floor in each house, and the language in the two bills is identical.

Page 2
April 18, 2018

I am asking that the House and Senate pass H.F. 3782 and S.F. 3673 immediately and move them to Governor Dayton for his signature. Please feel free to contact me if you have any questions about this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Johnson', with a long horizontal stroke extending to the right.

Charles E. Johnson
Acting Commissioner

- c.c. The Honorable Brian Johnson
 The Honorable Warren Limmer
 The Honorable Michelle Benson
 The Honorable Jim Abeler
 The Honorable Tony Lourey
 The Honorable Jeff Hayden
 The Honorable Matt Dean
 The Honorable Joe Schomacker
 The Honorable Erin Murphy
 The Honorable Tina Liebling

April 18, 2018

Senator Jeremy Miller
Chair, Job Growth and Energy Affordability Policy and Finance Committee
3107 Minnesota Senate Building
St. Paul, MN 55155

Re: S.F. 3945, Omnibus Job Growth and Energy Affordability Finance Bill (DE- Amendment)

Dear Senator Miller,

The Department of Labor and Industry (DLI) wishes to extend our thanks for the confidence your committee continues to show in the agency through the Jobs and Economic Development Omnibus amendment (S.F. 3945- DE Amendment).

The amendment increases the appropriation to the Youth Skills Training Program to provide more grants to local partnerships (schools and businesses), resulting in more opportunities for Minnesota youth 16+ to gain industry experience as student learners in high demand fields. It also supports the agency's administrative demands for this popular program. DLI also supports both the proposed alignment of manufactured home fee cuts with the \$5.2 million licensing and permitting fee cuts the agency proposed last session as well as clarifying public accessibility language in the building code as called for by the Disability Council.

While the agency appreciates that the recommendations from the Worker's Compensation Advisory Council were included in this amendment, I would like to reiterate the Governor's request that budget and policy bills travel separately, and be debated and negotiated on their own merits. The Worker's Compensation Advisory Council recommendations are vetted and noncontroversial, and the standalone bill, S.F. 3420, currently awaits action in Senate Finance.

Furthermore, I am concerned two proposals recommended in the Governor's Supplemental Budget affecting DLI were not included in the amendment. I ask you reconsider including them:

1. **Aligning MN OSHA penalties with federal penalties-** Minnesota Occupational Safety Health Administration (MN OSHA) penalty levels for willful, repeat and serious violations need to be comparable with higher federal levels. This is a non-controversial proposal that will ensure DLI maintains its state OSHA plan status which has proven beneficial to the state's employers and employees. Without this provision, DLI's lower penalties potentially can be used as a reason to demonstrate MNOSHA Compliance is not as effective as the federal OSHA program and be defunded. If Minnesota were to lose authority, federal OSHA would step in and take over workplace safety and health enforcement and higher federal penalties would go into effect

without the mitigating factors MNOSHA uses. Minnesota is currently the only state in the Upper Midwest that has lower OSHA penalties than the federal levels.

2. **Increasing penalties for employers who commit wage theft-** The legislature should increase penalties for employers who commit wage theft from \$1,000 to \$10,000 and provide greater protections for employees. Both proposals were part of the Governor's supplementary budget. As discussed last session, DLI estimates that at least 39,000 Minnesota workers annually are victims of wage theft. Last year the legislature appropriated \$1,000,000 in FY17 and FY18 to combat wage theft. That has allowed DLI to hire additional wage theft staff in the Twin Cities and Greater Minnesota. However, the efforts will not be fully realized without changes to current law such as increasing penalties for employers who commit wage theft; defining wage theft in statute; subpoena power to get the information needed to assist employees harmed by wage theft; and requiring more complete information be provided to employees when working for an employer. Wage theft in Minnesota not only harms workers but also provides unscrupulous employers a competitive advantage over those who play by the rules.

I urge you to add these two measures to S.F. 3945. I look forward to working with you, committee members and staff as the bill progresses. If you have any questions, please contact me or Assistant Commissioner Heather McGannon (heather.mcgannon@state.mn.us).

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ken Peterson', with a long horizontal stroke extending to the right.

Ken Peterson

Commissioner

cc: Senator Bobby Joe Champion



April 18, 2018

Dear Members of the House State Government Finance Committee,

I am writing you today to express my strong opposition to the \$1,409,000 budget cut proposed for the Minnesota Department of Human Rights in HF4016 (DE2 Amendment), the Omnibus State Government Finance Supplemental Budget bill. I ask that you reject the DE2 Amendment as the work of the Department is critically important for all Minnesotans and Governor Dayton has stated that he will veto any bill that contains a budget cut for the Department.

This proposed budget cut for the Department, in a non-budget session with a budget surplus, represent the largest percentage cut to a cabinet level agency in the bill. As the Department of Human Rights is one of the smallest cabinet level agencies and the Department spends over 90% of its budget on salaries, rent and IT services – the proposed cut of 30% to the Department’s budget will result in the termination 40% of the Department’s staff. We estimate that at least 18 people serving vulnerable Minnesotans will lose their jobs.

In no uncertain terms, Governor Dayton will veto this proposed cut. On April 9, 2018, Governor Dayton wrote a letter to legislative leaders, stating that: “with a projected budget surplus of \$329 million, I will not consider cuts to the operating budgets of state agencies, which we negotiated and enacted one year ago.”

As we discussed last year, the work of the Department provides protections for all Minnesotans. The most common claim of discrimination investigated by the Department is a disability discrimination claim. During my time as Commissioner, I have seen a growing demand from Minnesotans throughout the state seeking the time, work, and guidance of the Department.

This Legislative body has also recognized that growing demand by passing legislation in the past few years that has expanded the scope and duties of the Department. Let me give you three examples from presentations that I was a part of last week at the St. Thomas Diversity and Inclusion Forum last week.

- Creating opportunities for people who have been rehabilitated and want to provide for themselves and their families. This Legislature, building off the long standing criminal rehabilitation offenders act, directed the Department in 2013 to educate employers about the largely untapped potential of rehabilitated individuals and to allow job applicants an opportunity to be heard when interviewing for jobs.
- Treating women with respect by ensuring they are provided equal pay. In 2014, this Legislature authorized the Department to review the compensation practices of state and major metropolitan agency contractors and to work with those contractors when discrepancies are identified.
- The Department assists entrepreneurs from racial and ethnic communities start, develop and expand their business through its service on the Minnesota Emerging Entrepreneur Board. The Legislature

AN EQUAL OPPORTUNITY EMPLOYER

Minnesota Department of Human Rights

Freeman Building • 625 Robert Street North • Saint Paul MN 55155

Tel: 651.539.1100 • MN Relay 711 or 1.800.627.3529 • Toll Free 800.657.3704 • Fax: 651.296.9042 • mn.gov/mdhr

added the Department to the Board in 2016 recognizing in part that the future economic vitality of Minnesota is linked to the growth and development of businesses.

This proposed budget bill would clearly eliminate the ability of the Department to fulfill its statutory obligations and frustrate the needs of many Minnesotans. All people in Minnesota - individuals with disabilities, women, men, people who need a second chance, people who are seeking to start or grow their business – will be negatively impacted by this budget cut.

This threatened cut to the budget of the Department is particularly ill-advised when the federal government has pulled back on civil rights enforcement and education in employment, education, and housing. Funding and support for civil rights enforcement and education at the state level should not be undermined as suggested in this bill, but rather civil rights enforcement and education should be expanded at this time.

As budgets are moral documents in which we declare what is important to us, I would ask that each member of this committee give serious thought and reflection on what values are important to them. I would urge committee members to also read the speeches of Republican Governor Harold Levander 50 years ago when urged us to create a society in Minnesota such that we would be a leader among states in our country on issues of civil rights for all.

This proposed cut is unwise, unnecessary, and just flat out bad public policy. I ask that you reject the DE2 Amendment as being inconsistent with the values and traditions of Minnesota leading on issues of civil rights. However, please know that if you do not reject it, Governor Dayton will veto the bill.

I hope you will not hesitate to contact my staff or myself with any questions. You can reach Scott Beutel, MDHR's Public Policy Director, at scott.beutel@state.mn.us or (651) 231-2795.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin Lindsey". The signature is fluid and cursive, with a large initial "K" and "L".

Kevin Lindsey
Commissioner

cc: Joane McAfee, Office of Governor Mark Dayton

April 18, 2018

Chair Anderson and members of the State Government Finance Committee,

The DE2 amendment to HF 4016 makes several changes to the Metropolitan Council governance structure, including the elimination of the Transportation Advisory Board. These proposed changes would create a 28-member Council made up of local elected officials, including one county commissioner from each of the six of the seven metropolitan counties, two commissioners from Hennepin county, the MnDOT commissioner, and three modal representatives.

The governance structure proposed in this bill would undo 50 years of work towards addressing regional-scale challenges from a regional perspective. The legislature created the Metropolitan Council to address issues that were too big for any one local government to efficiently address on its own. The current governance structure positions the metropolitan region to compete well against other regions that have a more fragmented and less efficient form of regional governance, such as the common “council of governments” model.

Furthermore, the governance provisions in this bill raise real or, at a minimum, perceived conflicts of interest in having local elected officials hold dual offices that frequently overlap. For example, cities are a wholesale customer of the Metropolitan Council wastewater enterprise. The Council approves rates and policies around wastewater operations. Similar conflicts could arise when the Council approves all decennial updates and major amendments to comprehensive plans or approves funding awards to cities, such as Livable Communities grants.

it is undeniable that there will be times when the local and regional interests are in conflict. In these cases, the inevitable pull of these divergent interests will threaten the very processes that have contributed to making the Twin Cities region as strong and as prosperous as it is today.

Finally, just last year a very similar governance proposal was included in HF 861, the Omnibus Transportation Finance bill and was vetoed by Governor Dayton. In his veto message, the Governor encouraged the legislature that if they wanted a change to the Metropolitan Council governance structure to propose a change that included input from, and is overwhelmingly supported by, a majority of the entities impacted by any change to the Metropolitan Council. In its current form, this governance proposal does not have that support.

Thank you,



Alene Tchourumoff
Chair, Metropolitan Council

April 19, 2018

Representative Pat Garofalo
Chair, Job Growth and Energy Affordability Policy and Finance Committee
485 State Office Building
St. Paul, MN 55155

Re: H.F. 4289, Omnibus Job Growth and Energy Affordability Policy and Finance Bill (DE-Amendment)

Dear Representative Garofalo,

The Department of Labor and Industry (DLI) wishes to extend our thanks for the confidence your committee continues to show in the agency through the Jobs and Energy Omnibus bill (H.F. 4289-DE Amendment).

This amendment includes the Governor's request to align Minnesota Occupational Safety Health Administration (MNOSHA) penalties with federal penalties. This will ensure that DLI maintains its state OSHA plan status, which has proven beneficial to the state's employers and employees. DLI also supports the proposed alignment of manufactured home fee cuts with the \$5.2 million licensing and permitting fee cuts the agency proposed last session and the language clarifying the definition of modular homes.

The amendment increases appropriations for the Youth Skills Training (YST) Program and for wage theft enforcement. Added YST funding that provide more grants to local partnerships (schools and businesses), resulting in more opportunities for Minnesota youth 16+ to gain industry experience as student learners in high demand fields. The measure does not include funding for additional administrative demands. I urge you to consider it. We also appreciate additional wage theft funding which, along with last year's appropriation will enable even better DLI responses to wage theft complaints. I also encourage the committee to consider DLI's other anti-wage theft proposals including increasing penalties for employers who commit wage theft; defining wage theft in statute; subpoena power to get the information needed to assist employees harmed by wage theft; and requiring more complete information be provided to employees when working for an employer. Wage theft in Minnesota not only harms workers but also provides unscrupulous employers a competitive advantage over those who play by the rules.

While the agency appreciates the appropriations discussed above, I reiterate the Governor's request that budget and policy bills travel separately, and be debated and negotiated on their own merits. I am concerned with several specific policy proposals included in this amendment and ask you to remove them from the bill:

Representative Pat Garofalo

April 19, 2018

Page 2

- **Requirement of legislative review and notification for residential rulemaking changes to the building code resulting in \$1,000 or more (Article 4, Section 1)** – While DLI understands the important and critical issue of affordable housing for Minnesotans, this language would impose several burdens upon DLI and other agencies, with little to no benefit to the public or the cause of affordable housing. There are many contributing factors to housing cost increases, some include the rising costs of land, labor, material and municipal land-use regulations that the executive branch agencies including DLI have no control over. It is also important to note the most costly changes to the residential building code in the past eight years were from the past legislature in 2009 (radon mitigation, durability law and window-fall protection) and Governor Pawlenty (energy code).
- **Redefinition of tipped employee status (Article 5, Sect. 1)** – This language allows employers to deduct the value of a certain level of tips received by their employees from their hourly wage obligation. We don't believe cutting real wages is workable way to grow Minnesota's economy or to help wage earners. Applying this "tip penalty" increases the likelihood of worker exploitation by allowing employers to be involved in the calculation of tips. The language also doesn't include any requirement to notify employees that their employer is utilizing the tip penalty as justification for paying less than the standard minimum wage.

Thank you for your time and consideration. I look forward to working with you, committee members and staff as the bill progresses. If you have any questions, please contact me or Assistant Commissioner Heather McGannon (heather.mcgannon@state.mn.us).

Sincerely,



Ken Peterson

Commissioner

cc: Representative Tim Mahoney

April 20, 2018

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

Dear Representative Garofalo:

On behalf of the Minnesota Department of Employment and Economic Development (DEED), I am writing to provide feedback on the House Job Growth and Energy Affordability Committee supplemental omnibus bill. I appreciate the challenge of crafting a supplemental budget bill, particularly within the target you were given. The House bill, however, makes deep cuts to DEED programs and if approved will severely limit investments in our workforce, businesses, and communities, particularly in Greater Minnesota.

Governor Dayton proposed a supplemental budget that focuses on better government for the people of Minnesota, all while protecting Minnesota's current and future economy. It is my hope that we can work together to pass a supplemental budget that reflects those priorities. With that, below you will find an overview of areas in the House omnibus bill that DEED either supports or has concerns with.

Border-to-Border Broadband

I wanted to thank you for your support of \$15 million in FY19 for the Border-to-Border Broadband Development grant program. While I am appreciative that the House included funding for broadband, I am concerned that the \$15 million proposed in the bill will not keep pace with the urgent needs identified in communities across the state.

As you know, Governor Dayton's budget recommended \$30 million in FY19 for the program, which would expand broadband access to approximately 11,000 households, businesses and community institutions. The recommendation in the House bill would only expand broadband access to about 5,500 households, businesses and community institutions. I encourage you to increase funding for the Border-to-Border Broadband Development grant program to meet the Governor's level and to ensure that Minnesota families and businesses are able to compete.

Cuts to the Minnesota Investment Fund and Job Creation Fund

It is important that Minnesota has a fully funded complement of economic development tools to support job creation and business expansion throughout our state. Minnesota's incentive programs, like the Minnesota Investment Fund (MIF) and Job Creation Fund (JCF) are modest finance programs relative to programs available in other states, yet they remain critical components for economic development competitiveness and business decisions to expand or relocate, especially in Greater Minnesota.

The bill cuts MIF by \$5 million for FY19 and earmarks a further \$3.5 million in FY19, leaving only \$4M on the bottom line to support business expansion and relocation activities in the state. Since 2011, MIF has provided funds to more than 102 businesses helping them add a projected 9,000 quality jobs throughout the state and leverage more than \$1.55 billion dollars in private investment. Some recent MIF investments include: Digi-Key (Thief River Falls); ASV (Grand Rapids); Altec (Duluth); Wabash International (Little Falls), and Kraft-Heinz (New Ulm).

The bill also cuts JCF by \$7 million for FY19, reducing the program to \$1.5M for FY19 and reducing the base to \$8 million in FY20 and \$5M in FY21. This cut to JCF will essentially end the program in early FY19. The JCF has provided funds to more than 84 projects statewide since 2014 which includes 43 in the Twin Cities and 41 in Greater MN. JCF investments have created and retained more than 5,000 jobs and leveraged \$1.03 billion in total private investment. The JCF is currently fully subscribed for FY18 with multiple awards being made this week and two others likely in May. Notable FY18 funding awards include: Stang Precision (Paynesville); L&M Radiator, Inc. (Hibbing); Geringhoff Corp. (St. Cloud); Stars Hollow Company (Cambridge), and Midwest Dry Cast (Luverne).

With a budget surplus, these critical resources should not be cut, because Minnesota will be left with very few dollars to support business expansion and relocation in our state and our competitiveness will suffer.

Minnesota Investment Fund Language for a Paper Mill

The Governor's budget recommended one-time language to be added to the FY 2019 MIF appropriation. This language provided for an investment of \$2 million of the existing MIF appropriation for a paper mill in Duluth to assist with upgrades to its facility and to retain almost 200 employees. I encourage you to increase the dollar amount appropriated to this project from FY19 MIF, as well as restoring proposed cuts to the MIF program.

Prairie Island Net Zero Project

The bill establishes the Prairie Island Net Zero Project at line 34.10, initially funded at \$20 million in FY18 and then funded at \$5 million per year for four additional years. Funding for this project amounts to \$40 million and the bill language contains little guidance about the types of research, development and implementation of renewable energy projects that the project is meant to include. Additional language in the bill further describing the legislative intent of the project would be helpful in ensuring that the project meets those expectations and to ensure that DEED has the expertise in the agency to complete the project. Lastly, this project does not include any administrative costs to fund the monitoring and oversight of this project that DEED will be required to provide.

Technical Issues

There are a number areas in the bill where we have identified technical issues that I urge you to resolve before passing this bill:

- All direct appropriations except for broadband are drafted to come from the "Business and Community Development" program. The direct appropriations should be revised to come from the proper budget program area to ensure good administration and budget tracking. For instance, the workforce training programs should be from the "Workforce Development" budget program and the grants to Advocating Change Together and Centers for Independent Living should come from the "Vocational Rehabilitation" budget program.
- The appropriation at line 5.11 should go to the Pollution Control Agency (MPCA). The MPCA is listed on line 5.35 because they have expertise in water quality regulation and permits. This area is outside the scope of DEED's expertise.

- The appropriation at line 14.10 for Florence Township is not consistent with the purpose of the Minnesota investment fund under Minnesota Statutes, section 116J.8731 which may make this grant difficult to administer as required by statute.

Investments in Three Minnesota Organizations

The Governor's budget also recommended funding for the following organizations: Family Partnership - \$1.4 million; Family Tree Clinic - \$900,000; and Tubman Center - \$383,000. This funding would allow these organizations to upgrade, expand and renovate their facilities so they can provide better serves to Minnesotans. I encourage you to include this language in the bill.

Policy Provisions

Finally, I want to reiterate Governor Dayton's direction in his April 9th letter to legislative leaders regarding the inclusion of policy provisions in budget bills. Policy bills should travel separately so they can be discussed on their own merits and passed as stand-alone bills. With respect to this bill, this includes the name change for the Minnesota Investment Fund, policy changes in the use of local government loan repayment funds, and policy changes to the dislocated worker rapid response activity related to the Electrolux plant closure.

I know that the committee has challenging work ahead and DEED is committed to working with you to develop a budget that will strengthen Minnesota's economy. Thank you in advance for your consideration of this feedback. Please do not hesitate to contact directly me or Darielle Dannen (darielle.dannen@state.mn.us) with any questions.

Regards,



Shawntera Hardy
Commissioner

CC: Representative Tim Mahoney



Minnesota Department of Human Services
Acting Commissioner Chuck Johnson
Post Office Box 64998
St. Paul, Minnesota 55164-0998

April 20, 2018

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

The Honorable Paul Gazelka
Senate Majority Leader
Minnesota Senate Bldg., Room 3113
95 University Avenue W.
Saint Paul, Minnesota 55155

Dear Speaker Daudt and Majority Leader Gazelka:

I write to bring your attention to HF3253 authored by Representative Franson and SF2865 authored by Senator Lang. Over the last several years there has been much discussion between the Minnesota Department of Human Services, concerned child care providers, and legislators about the implementation of the positive supports rule. In that same period, the department has met with many legislators and child care providers, and has testified before committees in both the House and Senate to communicate our opposition to an exemption for child care providers from the positive supports rule.

The aforementioned bills are currently on the general orders and general register in the respective houses. The department's position has not changed on this matter. I have enclosed the clear communications sent last session on this matter as additional background for your information.

Please feel free to contact me if you have any questions about this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Charles E. Johnson', with a long horizontal flourish extending to the right.

Charles E. Johnson
Acting Commissioner

c.c. The Honorable Mary Franson
The Honorable Andrew Lang
The Honorable Michelle Benson
The Honorable Jim Abeler
The Honorable Tony Lourey
The Honorable Jeff Hayden
The Honorable Matt Dean
The Honorable Joe Schomacker
The Honorable Erin Murphy
The Honorable Tina Liebling



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April 20, 2018

The Honorable Pat Garofalo, Chair
Job Growth and Energy Affordability
Policy and Finance Committee
Minnesota House of Representatives

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

RE: DE Amendment, HF 4289, Omnibus Job Growth and Energy Affordability Policy & Finance Bill

Dear Legislators,

Thank you for the opportunity to address the committee earlier this week regarding the omnibus finance bill. I am writing to provide more detailed comments about the bill.

Homework Starts with Home

The Governor included \$4 million in his supplemental budget for Homework Starts with Home and made the program part of Minnesota Housing's base budget. This funding would help provide stable housing for 500 families, including an estimated 1,000 Minnesota kids. This initiative builds on the success of a pilot program that created housing stability for 90 percent of participants and strengthened attendance for students. There is statewide need for this funding. In the 2016-17 school year, students facing homelessness attended 1,241 different schools located across 77 of Minnesota's 87 counties.

We appreciate that the omnibus bill includes \$1 million in additional one-time funding for the initiative; however, we are concerned that the funding comes from cuts to programs at other agencies in our bill area. We hope that as the budget process continues, funding cuts will be restored and the committee will consider funding this important initiative at the level proposed by the Governor. This level will allow the program to be extended to more school districts across the state.

Tax-Exempt Bond Reform

The omnibus bill includes HF 2112 which pertains to tax-exempt bond reform. I provided extensive testimony to the committee on April 11 regarding our concerns with HF 2112 as written. As you heard in committee, a work group of housing stakeholders met over the course of the summer and fall last year and agreed to five consensus items that should make up any bond reform package. These five items are reflected in HF 2112 and the omnibus bill. However, we remain concerned about the two additional items in this bill beyond the consensus items.

We have significant concerns about the provision in Section 11 on lines 58.20 through 58.31 that 'automatically' allocates affordable housing tax credits. This provision is not in compliance with federal law. We are also concerned about the provision of the bill in Section 20 on lines 63.4 and 63.5 that eliminates the state's housing priority for homeownership for two years. Attached is a joint letter from Minnesota Housing and Minnesota Management and Budget that outlines some technical issues with the bill and further explains Minnesota Housing's policy concerns.

Manufactured Home Park Infrastructure

This bill includes one-time funding for the Manufactured Home Park Redevelopment Program. While this is not a part of the Governor's budget, we believe that manufactured housing is an important affordable housing resource. However, we are concerned that funding for this program comes from cuts to programs at other agencies in our bill area.

Manufactured Home Relocation Trust Fund

We appreciate that the bill includes HF 3285 to increase the cap on the manufactured home relocation trust fund from \$1 million to \$3 million. This provision was also included in the Governor's supplemental budget.

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

Sincerely,



Mary Tingerthal
Commissioner

cc: Members of the House Job Growth and Energy Affordability Committee

Attachment: MMB and Minnesota Housing Letter on Tax-Exempt Bond Reform

April 20, 2018

Chair Jim Knoblach
House Ways and Means
453 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
Saint Paul, Minnesota 55155

Dear Chair Knoblach:

As HF 4016 moves to the Ways and Means committee, I write to express deep concerns about the bill and its impact on Minnesota taxpayers.

This bill, as drafted, reduces the Department of Revenue's general fund appropriation, negotiated and enacted last year, by \$3.895 million. Additionally, there are reductions to other agencies' budgets that will indirectly affect the Department of Revenue. The reductions to the department's budget, and to other agency budgets, will negatively affect our ability to maintain the current level of services we provide to Minnesotans.

HF 4016 represents a three percent cut to current general funds appropriated to the department. The department cannot absorb the appropriation reduction, and meet the requirements of the bill regarding maintenance of public services. Section 14 specifies that agencies prioritize reductions to central administration and general operations, and must not be made to programs or services provided directly to the public. However, the department provides comprehensive services to Minnesotans and reductions in any part of the department's operations will negatively impact customer service. The reduction in funds equates to a reduction of 47 employees who serve Minnesotans every day, which would negatively impact our ability to administer the state tax system.

During consideration of this bill last week in the State Government Finance Committee, the Department of Revenue was asked about the use of appropriations for FY18-19 of \$15.509 million. As indicated in Commissioner Frans' February 1, 2018 letter to Rep. O'Neill and Sen. Benson, the salary agreement with labor unions represented an additional \$5.765 million cost to the department. These costs were contained within the department's appropriation and, as described throughout last year's session on the department's biennial budget, the remaining \$9.744 million is being fully utilized for department operations and services including increased lease rates, expanded customer outreach and guidance, resources to ensure more timely and efficient audits, and an expanded effort to fight the growing problem of identity theft related refund fraud.

In his April 9 letter to Speaker Daudt and Majority Leader Gazelka, Governor Dayton said he will not consider cuts to the operating budgets of state agencies, which were negotiated and enacted last year.

Hiring Limitations Will Negatively Affect Our Services

The provision preventing Revenue from redeploying funds to meet our customer's ever-changing, current needs hinders agency management and will negatively impact Minnesotans. The department must have an ability to effectively manage customer service for all of our customers who include individuals, large and small businesses, our local government partners, and many more. To do this, we must consistently and effectively manage the changes that result from new technology and innovation at the department and across a variety of industries that file and pay taxes in Minnesota. Shifts, for instance, from paper filing to electronic filing, reduce the need for some skills at the agency, but increase the need for others.

Incidence Report Changes

We are concerned with the language to add federal taxes to the Incidence Study. Federal tax incidence is not under the jurisdiction of Minnesota lawmakers and its inclusion in the report could confuse the policy conversation. This is the case because some federal taxes are not on the same tax base as Minnesota taxes. For example, the definition of income for federal tax would need to include the employer share of social security taxes – which is not included in the definition of income in past studies on Minnesota taxes. This makes it difficult to understand the effect of combining federal tax results, and distorts the effect of state and local tax results. We recommend retaining the current format of the Incidence Study, which gives the legislature information about taxes over which it has jurisdiction.

Pipeline Valuation Report

We previously shared with this committee that a report of this scope – on the timeline specified in the bill – will take additional resources. We produced a similar report approximately 10 years ago, with the help of an outside expert, and it cost about \$100,000. Today, we estimate \$120,000 of additional resources to complete this work. We would like to work with you on the specifications of the report to ensure that it provides the information that can get us to the best results.

Moving Forward

The department is eager to serve Minnesota taxpayers as efficiently and effectively as possible. To do so, we need your help to secure the appropriate level of financial resources. We welcome any opportunity to discuss how we can best do that on behalf of Minnesota.

Sincerely,

Cynthia Bauerly

Commissioner

CC: Representative Lyndon Carlson, Sr.

DFL Lead, House Ways and Means
283 State Office Building

Sarah Anderson
Chair, House State Government Finance
583 State Office Building

Representative Sheldon Johnson
DFL Lead, House State Government Finance
259 State Office Building

April 23, 2018

The Honorable Julie A. Rosen
Senator
95 University Avenue West
Minnesota Senate Building, Room 3235
Saint Paul, MN 55155

Dear Senator Rosen,

I am writing today to reiterate my concerns with S.F. 3764, the 2018 Omnibus State Government Finance bill.

Provisions in S.F. 3764 unwind the sensible consolidation of state government information technology services that was enacted with bipartisan support just four years ago. As a commissioner of an agency whose staff and operations are reliant on MN.IT's expertise and services, I find this action concerning and oppose these provisions in S.F. 3764.

By proposing to convert MN.IT into a division within the Department of Administration, S.F. 3764 simply rearranges the reporting structure while doing nothing to fund needed investment for cybersecurity threats and update aging technology infrastructure. Adequate funding for centralized operations at MN.IT and Admin is essential for us to meet our common missions of helping state government operate as effectively and efficiently as possible.

Equally troubling, the bill does not even fund the increased administrative costs inherent in such a restructuring and explicitly outlined in the fiscal note.

I would like to note a key provision not included in the bill. Governor Dayton recommended reversing an ongoing accounting shift enacted in 2005 as a convenient short-term budget balancing solution but with long-term negative consequences for state asset preservation. This change would eliminate the requirement that 50% of the funds to maintain State Capitol complex assets collected each year by the Department of Administration through lease rates be deposited into the general fund. The change would instead allow those resources to be fully used to maintain the Capitol Complex, support building efficiencies, reduce long-term operating costs, and ensure safe facilities.

Again, I urge you to maintain current law structure for state technology services and fully fund Governor Dayton's budget recommendations for state government.

Thank you for your consideration and I look forward to the opportunity to provide additional information should you need.

Sincerely,



Matt Massman
Commissioner

c: Senator Mary Kiffmeyer
Erin Campbell



April 23, 2018

The Honorable Julie Rosen
Chair, Senate Finance Committee
3235 Minnesota Senate Building
95 University Avenue West
St. Paul, MN 55155-1606

Dear Senator Rosen;

Thank you for the opportunity to provide comments on Senate File 3141, the Omnibus Environment and Natural Resources Budget bill.

We appreciate the many important conversations we have had throughout this session about environment and natural resources issues. This bill contains several provisions that improve the important work of locally-led conservation. Specifically:

- **Improvements to the Clean Water Legacy Act (Chapter 114D) and local water management programs (Chapter 103B) [SF3647]**
This language supports local action and increases the pace of progress for clean water while continuing to assure accountability for the state's investment in local conservation work. It better aligns data, analysis, planning, and implementation to achieve coordinated watershed management.
- **Accelerating Drainage System Acquisition of Buffer Strips and Alternative Practices [SF3410]**
This language, based on the consensus recommendations of the stakeholder Drainage Work Group, provides Drainage Authorities and landowners with efficiencies and flexibility to install buffers as part of public drainage system work. We will continue to work with members and stakeholders to achieve consensus on language adjustments as needed.
- **Transfer of duties of the Ramsey Conservation District [SF3411]**
This language ensures that the citizens of Ramsey County experience no disruption in conservation services with the discontinuation of the District and transition of programs to the County.

While we appreciate the inclusion of these important provisions, we have concerns with the following aspects of the Omnibus bill:

- **Buffer Law Provisions**
Local governments have been working to help landowners implement the buffer law and that work shows in the high compliance rate for public waters and the preliminary compliance rate for public ditches. Flexibility built into the law provides authority to local governments to achieve compliance and determine an enforcement schedule. Governor Dayton has said he will not support any bill that extends the timeline on buffer implementation.

- **Soil Loss Provision**

This language removes the ability for a landowner to file a complaint if excessive soil loss from a tract of land harms their property or a body of water, unless their county has an ordinance. We oppose this provision, as current language provides for all landowners to have the ability to file complaint if they have been harmed. Current law also stipulates that cost-share assistance must be offered to the landowner causing the problem.

- **Wetland Replacement**

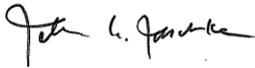
Language added in the previous committee hearing potentially removes the wetland replacement sequencing steps statewide. While current statute recognizes regional differences, the proposed change, as written, may result in wetlands being replaced far from where impacts occur.

- **Operational Adjustment**

The bill does not include the Governor's Supplemental Budget recommendations to cover GO bond-ineligible costs related to BWSR's bonding projects, unanticipated rent increases, and one-time retirement payouts.

Thank you for the legislative work leading up to this bill and the inclusion of provisions that will give our local government partners more opportunities to accomplish targeted conservation work in Minnesota. We look forward to working together in the remaining weeks of this session.

Sincerely,



John Jaschke
Executive Director
Board of Water and Soil Resources

cc: Sen. Bill Ingebrigtsen, Chair, Senate Environment & Natural Resources Finance Committee



Minnesota Department of Human Services
Elmer L. Andersen Building
Acting Commissioner Chuck Johnson
Post Office Box 64998
St. Paul, Minnesota 55164-0998

April 23, 2018

The Honorable Julie Rosen
Chair, Finance Committee
Minnesota Senate Bldg., Room 3235
95 University Avenue W.
St. Paul, Minnesota 55155

Re: 2018 Health and Human Services Omnibus Bill

Dear Chair Rosen:

As you prepare to finalize the Senate position in each of the omnibus bills, I want to take this opportunity to write and highlight my priorities for human services and draw your attention to concerns I have in the bills before your committee. I truly appreciate your efforts over the last few months on behalf of the over 1 million Minnesotans we serve at the Department of Human Services and I hope we can find agreement on the most pressing needs this session.

Protecting seniors and vulnerable adults from abuse is one of the highest priorities for this legislative session. Governor Dayton included a robust package of proposals to do this in his budget. I am pleased that Senator Housley's bill was debated and approved by the Health and Human Services Finance and Policy Committee and is traveling as stand-alone legislation. We stand ready to work with you on this critical issue. I am hopeful that the Senate will properly fund the critical items needed to ensure our seniors are safe, including: increased staff for the Ombudsman for Long-Term Care to meet consumer needs; increased capacity for the Minnesota Adult Abuse Reporting Center (MAARC) to create a true single entry point for reports of suspected maltreatment; investments in process improvements for notifying law enforcement; and providing grants to local communities so they can also better respond to this crisis.

As you are aware, one of the Governor's main priorities this session is to address the opioid crisis in our state. Opioid addiction is devastating families and communities across Minnesota. We need to make key investments such as the grants proposed in the Governor's budget to help local health and social service agencies and law enforcement work together. We can fund this by implementing a stewardship fee on pharmaceutical companies, who can and should help offset the costs for prevention and treatment of opioid addiction. We need to work together to address this crisis outside of the supplemental budget process. The Governor has requested this important matter be addressed in a stand-alone bill.

The Honorable Julie Rosen
April 23, 2018

The MinnesotaCare Buy-In proposal is a sensible option to address increasing cost and reduced access to care for people in the individual market. This measure would provide an affordable coverage option for approximately 100,000 Minnesotans who purchase coverage in the individual market. I know the Legislature is concerned about the individual market for health care, and by 2020 reinsurance is scheduled to end. This proposal is a smart solution for Minnesotans. The Governor also proposed a repeal of the provider tax sunset. These proposals together help ensure the future financial stability of the health care system in Minnesota.

There are a number of provisions from the Governor's proposals you have included in your bill and I would like to underscore their importance and thank you for their inclusion. Bringing forward the Governor's proposal to make program integrity improvements to the non-emergency medical transportation system will help to ensure that Minnesota's resources are used most efficiently to serve Medical Assistance enrollees. I also want to thank you for investing in School Linked Mental Health Grants. Your support of this successful program will serve about 7,500 more students who need services across Minnesota. Finally, I am glad you incorporated the refinancing of the Consolidated Chemical Dependency Treatment Fund operations account that provides greater transparency, eliminates recurring excess balances in the special revenue account and ultimately generates savings for the General Fund. These proposals are clearly priorities for all of us and I appreciate your work to include them.

I am pleased that portions of the Governor's proposal to improve child care assistance programs (CCAP) are also in the bill. These measures will provide greater access to affordable child care for working families in Minnesota and in particular address the needs of homeless families. However, I am disappointed that the bill lacks important health and safety changes for legal non-licensed providers and due process rights for providers. Without these important provisions, the state is out of compliance with federal law and potentially subject to financial penalties. Minnesota is one of very few states that are still out of compliance with federal child care requirements and I hope we can continue to work together to solve this problem that has been before us for the last three years.

It is disappointing that the Governor's proposed rate increase for Personal Care Assistants (PCA) is not included in the bill. The workforce shortage is a serious issue and PCAs make it possible for people with disabilities to live in their homes, get to work and manage their daily living. This modest request will help maintain these needed services.

Another proposal from the Governor's package that is not included in the Senate bill relates to the increased fees the federal government has applied to child support cases of families not receiving public assistance, from \$25 to \$35. There are two options for addressing this shortfall: You may increase the fee in statute or allocate the funding as we proposed. Ultimately, inaction by the legislature results in a loss of funds to counties, not the state, because counties keep the nonfederal share of the fee.

Finally, I am troubled you have not included the Governor's proposal to properly place financial responsibility for the Supreme Court of Appeals Panel (SCAP) in the Minnesota Judicial Branch budget. The SCAP panels hear and decide reduction in custody petitions of individuals civilly committed in our Minnesota Sex Offender Program and those committed as Mentally Ill and Dangerous. This request is needed to avoid the conflict of interest wherein DHS provides the funding for the panel that we appear before as a party.

The Honorable Julie Rosen
April 23, 2018

The Senate bills include two provisions that will enhance community engagement and our ability to better serve targeted populations. While Minnesota has enjoyed top rankings in many national categories of services, we perform poorly when it comes to outcomes for American Indian and African American people. The proposals to extend the American Indian advisory councils another five years will help the department continue to work directly with the community and to provide culturally appropriate mental health, chemical dependency and child welfare services to our tribal partners. Similarly, African American children are removed from their homes at a rate that is more than three times that of their white counterparts. Your inclusion of the African American child welfare workgroup will help to formulate more informed policies and procedures relating to African American child welfare services and help to ensure African American families are provided with the services they need to care for their children in their own homes.

I appreciate that you included the elimination of the county child protection grant withhold requirement. We too recognize that in order for the counties to respond effectively to Minnesota's child protection needs they must have predictable funding levels in order to hire permanent staff to meet performance standards.

The Senate bill takes steps to dedicate resources to help stabilize the long-term care workforce and to support reliable and quality services for our citizens with disabilities. The department stands ready to work with you to help ensure that the Disability Waiver Rate System legislation meets federal requirements. We share the priority that funding be dedicated to improving the wages of the direct care workers. Finally, the 21st Century Cures Act requires electronic visit verification for personal care services by 2019. The steps the Senate bill is taking to bring Minnesota into federal compliance is commendable and I appreciate your efforts.

There are several proposals currently in your bill that I am concerned about and ask that you consider removing. First there is a provision addressing the community placement of clients with violent or assaultive behaviors. The department is responsible for helping to re-integrate people who have been treated in one of our facilities back into the community. There are times when those placements are court ordered and approved. Encumbering the department with this language could present legal challenges in the future when the department is unable to take the necessary steps for community integration of a person that is no longer appropriately served in one of our facilities.

Another proposal in your bill I am concerned about allows health care providers to access an enhanced payment rate for Early and Periodic Screening, Diagnostic and Treatment in some situations without performing all the required screenings that meet the recommendations by the American Academy of Pediatrics. The enhanced rate is designed to be an incentive for following best practices and the Senate proposal would diminish that incentive.

The legislation also intends to repurpose \$14 million the department dedicated to Direct Care and Treatment (DCT) to invest in needed technology improvements. These funds will be used to increase patient and staff safety through improved technology and to implement an Electronic Health Record system for DCT. I see this action as impinging on executive branch authority to manage programs, services and resources as best we can to meet the multiple pressures of administering services. It moves DHS backward in our efforts to improve safety at our direct care facilities.

The Honorable Julie Rosen
April 23, 2018

I invite additional conversation on two topics. The first is the provision that asks the department to draft legislation to create a new state agency and pulls functions from both the Department of Human Services and Health. There are some units within these areas that may, by federal law, remain with human services. I'd like to know from the Senate the intent of the new agency and for you to provide additional detail so my agency can be responsive.

Next, there are issues with your legislation related to the new legislative budget office. The requirement to share data used in the development of a fiscal note, regardless of classification, with the Legislative Budget Office is problematic due to data privacy concerns and because the department is subject to numerous federal laws that prohibit the sharing of private data on individuals. This issue must be addressed. Additionally, the process envisioned for the Legislative Budget Office to review 300 pilot fiscal notes is unclear. Two entities coordinating identical fiscal notes will create confusion and delays.

Thank you for your consideration of these comments. I look forward to working with you now and through conference committee on these important issues. As always, we at DHS stand ready to provide you any additional information or assistance you may need in the coming days and weeks.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Johnson', with a long horizontal stroke extending to the right.

Charles E. Johnson
Acting Commissioner

c.c. The Honorable Michelle Benson
The Honorable Jim Abeler
The Honorable Tony Lourey
The Honorable Jeff Hayden
The Honorable Mary Kiffmeyer

April 23, 2018

Senator Julie Rosen
Chair, Finance Committee
Room 3235, Minnesota Senate Bldg.
95 University Avenue W.,
St. Paul, MN 55155

Re: S.F. 3764, State Government Finance Omnibus Bill

Dear Senator Rosen,

The Department of Labor and Industry (DLI) understands the important and critical issue of affordable housing in Minnesota. However, we believe the language that would require additional legislative review of rulemaking for residential building code changes that result in \$1,000 or more in Section 15 will not address this issue and should be removed.

We are concerned with the inclusion of this language in the Senate State Government Finance omnibus bill because it will impose several burdens upon DLI and other agencies, with little to no benefit to the public or the cause of affordable housing for the following reasons:

- 1. Close to all significant cost changes to the residential building code in the past years were due to changes by the Legislature and Governor.** DLI has had a minimal impact on changes to the state residential building code that have resulted in increased home costs. Nearly all costly changes in the past eight years to the residential building code were passed on by both the Legislature in 2009 (radon mitigation, durability law and window fall protection) and Governor Pawlenty (energy code). This bill language would not address this from happening again in the future.
- 2. The real barriers to more affordable housing are the costs of land, labor, material and municipal land-use regulations.** This was made clear in the bi-partisan Housing Summit and also the Governor's Affordable Housing Task Force this year. Addressing these areas are critical to affordable housing and something DLI has no control over when adopting the residential building code.
- 3. Establishing a \$1,000 threshold is subjective and the result could be contentious.** This language would require DLI to determine if a proposed rule would cost \$1,000 or more. It can be expected this determination will be challenged and the Department will need to hire 1.5 FTE's in order to verify costs of proposed rules to the extent required by this legislation. This will result in the department spending an additional \$187,200 per fiscal year in staffing resources, which DLI believes is an unnecessary cost to taxpayers.

- 4. It will be difficult to meet the statutory obligation to adopt new model codes within two years.** DLI already spends months studying changes in the new code with industry stakeholders. It takes many more months to prepare rulemaking records and justifications for 6 model codes simultaneously. If DLI determines the proposed rule meets the \$1,000 threshold, the entire rulemaking effort will have to be oriented to coincide with the end of the legislative session. If it is not, there is risk of the rule automatically becoming void after 180 days. Then the process would have to begin over again, resulting in wasted staff time and unnecessary costs to the agency.

DLI shares the concern of ensuring housing is affordable to all Minnesotans. However, innovative and effective ways to address this issue is the approach that should be taken versus unnecessary, costly and ineffective methods that impact an already collaborative approach to implementing the residential building code.

If you have questions, please contact me, Assistant Commissioner Scott McLellan (scott.mclellan@state.mn.us) or Assistant Commissioner Heather McGannon (heather.mcgannon@state.mn.us).

Sincerely,

A handwritten signature in black ink, appearing to read "KB Peterson", with a long horizontal stroke extending to the right.

Ken Peterson
Commissioner
Minnesota Department of Labor and Industry

cc: Senator Richard Cohen, Ranking Minority Member of Finance Committee
Senator Mary Kiffmeyer, Chair of State Government Finance and Policy and Elections Policy Committee

April 23, 2018

Senator Julie Rosen
Chair, Senate Finance Committee
3235 Minnesota Senate Building
St. Paul, MN 55155

Re: S.F. 3945, Omnibus Job Growth and Energy Affordability Finance Bill

Dear Senator Rosen,

The Department of Labor and Industry (DLI) is pleased the Omnibus Job Growth and Energy Affordability Finance bill (S.F. 3945) increases the appropriation to the Youth Skills Training Program to provide more grants to local partnerships (schools and businesses), resulting in more opportunities for Minnesota youth 16+ to gain industry experience as student learners in high demand fields. It also supports the agency's administrative demands for this popular program. DLI also supports both the proposed alignment of manufactured home fee cuts with the \$5.2 million licensing and permitting fee cuts the agency proposed last session.

While the agency appreciates that the recommendations from the Worker's Compensation Advisory Council were included in this amendment, I would like to reiterate the Governor's request that budget and policy bills travel separately, and be debated and negotiated on their own merits. The Worker's Compensation Advisory Council recommendations are vetted and noncontroversial, and the standalone bill, S.F. 3420, currently awaits action in this committee.

Furthermore, I am concerned two proposals recommended in the Governor's Supplemental Budget affecting DLI were not included in this bill. I ask you consider including them:

1. **Aligning MN OSHA penalties with federal penalties-** Minnesota Occupational Safety Health Administration (MN OSHA) penalty levels for willful, repeat and serious violations need to be comparable with higher federal levels. This is a non-controversial proposal that will ensure DLI maintains its state OSHA plan status which has proven beneficial to the state's employers and employees. Without this provision, DLI's lower penalties potentially can be used as a reason to demonstrate MNOSHA Compliance is not as effective as the federal OSHA program and be defunded. If Minnesota were to lose authority, federal OSHA would step in and take over workplace safety and health enforcement and higher federal penalties would go into effect without the mitigating factors MNOSHA uses. Minnesota is currently the only state in the Upper Midwest that has lower OSHA penalties than the federal levels.

2. **Increasing penalties for employers who commit wage theft-** The legislature should increase penalties for employers who commit wage theft from \$1,000 to \$10,000 and provide greater protections for employees. Both proposals were part of the Governor's supplementary budget. DLI estimates that at least 39,000 Minnesota workers annually are victims of wage theft. Last year the legislature appropriated \$1,000,000 in FY17 and FY18 to combat wage theft. That has allowed DLI to hire additional wage theft staff in the Twin Cities and Greater Minnesota. However, the efforts will not be fully realized without changes to current law such as increasing penalties for employers who commit wage theft; defining wage theft in statute; subpoena power to get the information needed to assist employees harmed by wage theft; and requiring more complete information be provided to employees when working for an employer. Wage theft in Minnesota not only harms workers but also provides unscrupulous employers a competitive advantage over those who play by the rules.

I urge the reconsideration of these two measures to S.F. 3945. If you have any questions, please contact me or Assistant Commissioner Heather McGannon (heather.mcgannon@state.mn.us). Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'KB' followed by a stylized flourish.

Ken Peterson

Commissioner

cc: Senator Richard Cohen, Ranking Minority Member of Finance Committee
Senator Jeremy Miller, Chair of Jobs and Economic Growth Finance and Policy Committee

April 23, 2018

The Honorable Julie Rosen
3235 Minnesota Senate Building
Saint Paul, MN 55155

The Honorable Richard Cohen
2301 Minnesota Senate Building
Saint Paul, MN 55155

Dear Senators Rosen and Cohen:

In a time of low commodity prices and increasing uncertainty regarding international trade we, as policymakers, are duty-bound to do everything in our power to ensure that farmers are able to weather these difficult times. However, as a lifelong advocate for farmers and rural communities, I am deeply disappointed in Senate File 2893. This bill fails to invest a single new dollar into our rural communities' wellbeing and it compromises the Minnesota Department of Agriculture's (MDA) rulemaking authority under the Groundwater Protection Act.

It is not a secret that Minnesota's farm economy is struggling and our rural neighbors are struggling alongside it. In his budget, Governor Dayton provides a modest budget increase of \$200,000 to fund a second, statewide rural mental health counselor and continue the agency's highly successful rural mental health outreach. Frankly, there is a need for even more funding for rural mental health at the department, but this level of investment is prudent given there is also a need to implement Governor Dayton's tax conformity plan and to provide a "buy-in" option for MinnesotaCare, two policy issues that will also reduce the financial pressures facing farmers.

With a projected budget surplus of \$329 million it is unconscionable that this bill fails to provide a single new dollar of spending for rural mental health. This bill merely re-appropriates the agency's budget, cutting almost 5 percent of our operating budget, and reneges on the agreement Governor Dayton and the legislature reached last year.

I want to be clear: rural mental health is a priority for the department, but it cannot be funded through a cut to our operating budget. Reductions in our General Fund appropriation would simply cause the agency to offset the cut by finding additional revenue via increased user fees or reducing the services the agency provides—neither option seems appropriate given the fact that we have a budget surplus and a slumping farm economy. And as Governor Dayton outlined in his April 9, 2018 letter this cut will not be considered.

Senate File 2893's language curtailing the department's rulemaking authority under the Groundwater Protection Act will also result in the bill being vetoed. Under the Groundwater Protection Act, passed in 1989, the department has the authority and the responsibility to prevent and mitigate nitrate contamination in Minnesotan's drinking water and the language in this bill impedes our ability to achieve this mission.

Senator Julie Rosen
Senator Richard Cohen
April 23, 2018
Page 2

As a former member of the Senate, I have immense respect for the Legislative Branch and the oversight role it plays in regards to the Executive Branch but rulemaking is the explicit purview of the Executive Branch and must remain so. Rulemaking is a complex, years-long process that requires continuous public engagement—it cannot occur simply during election years—and in-depth scientific analysis. It is misguided to think that rulemaking authority can effectively lie within a legislative body. Rulemaking requires a team of dedicated civil servants to ensure that it is conducted with the best available science and in a truly transparent manner.

As mentioned above, this bill's cut to our operating budget and its language reducing our rulemaking authority are non-starters and will result in a veto. However, there are other provisions in this bill that provide opportunities for continued collaboration. SF 2893 contains language concerning the MDA's role in overseeing noxious weed removal on publicly-owned lands. The agency shares your goal of stopping the spread of noxious weeds but is concerned the language contained in this bill would not have the results we all seek.

Additionally, the agency has concerns with the changes this bill makes to our bioincentive programs. Specifically, we're concerned with how bioincentive program claimants will be processed if the program is backdated to included facilities that began operating in 2013. The MDA also has concerns with the proposed language that restructures the fee schedule for retailers selling native grasses. We're open to restructuring the fee schedule but want to ensure that native grass retailers pay a fee that covers the cost of the required noxious weed screening.

In closing, I respectfully urge the Senate to provide the department with a real funding increase for rural mental health and to remove the language compromising the agency's rulemaking authority. Once these hurdles are removed, I know we can work together to craft a bill that supports Minnesota's farmers.

Sincerely,



Dave Frederickson
Commissioner

CC:
Senator Bill Weber
Senator Torrey Westrom
Senator Kari Dziedzic
Senator Foug Hawj

April 23, 2018

Senator Julie Rosen
Chair, MN Senate Finance Committee
3235 Minnesota Senate Building
95 University Avenue West
St. Paul, MN 55155

Dear Honorable Senator Rosen:

This legislative session, Governor Dayton included three essential requests for the Department of Corrections (DOC) to maintain our legal responsibility to Minnesotans. Governor Dayton proposed to provide health care to our offenders, funding to support the DOC's projected population increase, and funding to prevent future deaths from the serious opioid crisis. We appreciate the funding Sen. Limmer and the Judiciary Committee provided for the offender health care contract increase. Providing health care is a requirement we simply cannot ignore or neglect.

The \$6.6 million provided covers the health care contract, yet our health care partner has agreed to work with us to create an electronic health record system (EHR) for an additional \$1.2 million for FY2019 and less in the out years at \$700,000. Our original request for the EHR was for more than \$9 million. This results in a lower cost option that is cost effective for the state.

The DOC will own the medical data, but the system will be managed and maintained by the vendor. This EHR system will create efficiencies in our medical clinics, improve the exchange of medical information between DOC health services, outside clinics and hospitals, and abide by the laws requiring every health care provider to use electronic health record technology. This electronic system will follow HIPAA rules and be more secure.

Our second request of \$7.864 million for the projected increased population is also a budget must. The forecasted projections show an additional 355 people being coming to the DOC over the previous projections from 2016. Without funding to pay for the larger population, we will need to cut back in other critical areas. This funding is needed to pay the bills for the additional rental beds. We are concerned if the request is not funded it could lead to unsafe conditions for our staff and offenders living in our prisons. We will be back next year if population projections are recognized asking for emergency funding.

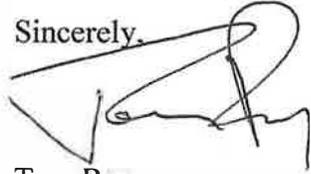
Finally, the Governor has put forth a strong plan to address the opioid crisis and the DOC has a small, yet important role in the plan. Our request for \$710,000 is to provide offenders, who have been assessed with an opioid-related disorder, with medication to address cravings, known as medical assisted treatment (MAT) and pre-release planning before they return to the community.

We know that the highest rate of opioid related deaths occur after people are released from incarceration. We are trying to prevent these deaths.

Nothing in this request is glamorous – it is a basic request to ensure basic funding for daily operations of our prisons, and provide needed access to medication assisted treatment for offenders for a safe transition to the community.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tom Roy', written over the word 'Sincerely,'.

Tom Roy
Commissioner

April 23, 2018

Representative Jim Knoblach
Chair, House Ways and Means Committee
453 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155

Dear Honorable Chairman Knoblach:

The Department of Corrections (DOC) has proposed three budget requests, which are necessities to fulfilling our statutory obligations. These requests are important to maintain our responsibility to care for those we incarcerate, maintain safety in our prison facilities, prepare offenders to return to the community, and keep the people of Minnesota safe.

Our state constitution's first objective requires government be instituted for the safety and security of the people of Minnesota. Funding the obligation of the Department of Corrections needs to be addressed. I know that you understand the importance of keeping our prison facilities safe for our staff, the people we incarcerate, and for all Minnesotans.

Last session, the legislature told the DOC to come back in 2018 with the cost for an offender health care contract. We did as requested. The new contract at \$7.8 million is \$3 million less than the original request and includes an electronic health record system (EHR). The DOC takes the responsibility of being accountable with tax dollars very seriously, and our requests are both fiscally sound and necessary. The DOC is required by law to provide medical care. Many of the people who come to the DOC have never received health care, and we must treat everyone who comes through our door.

While negotiating the health care contract, our health care partner agreed to work with us to create an electronic health record system (EHR) for an additional \$1.2 million for FY2019 and lower in the out years at \$700,000. Our original request for the EHR in previous sessions was for more than \$9 million, so this lower cost option is cost effective for the state. The data will be owned by the DOC, but the system will be managed and maintained by the vendor.

This EHR system will create efficiencies within our medical clinics, improve the exchange of medical information between DOC health services, outside clinics and hospitals, and abide by the laws requiring every health care provider to use an electronic health record technology. The electronic system will follow HIPAA rules and be more secure.

Our second request of \$7.864 million for the projected increased prison population is also a budget requirement. This funding is needed to pay the bills for the additional rental beds. Without funding to pay for the larger population we will need to cut back in critical areas. The

agency will have to reduce services and hold critical positions open. We are concerned that this could lead to unsafe conditions for our staff and offenders living in our prisons. We will be back next year if population projections are recognized asking for emergency funding.

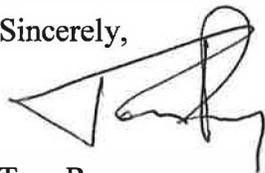
Governor Dayton has put forth a strong plan to address the opioid crisis and the DOC has a small, yet important role in the plan. Our request for \$710,000 is to provide offenders who have been assessed with an opioid-related disorder, with medication to address cravings know as medical assisted treatment (MAT) and pre-release planning before they return to the community. We know that the highest rate of opioid related deaths occur after people are released from incarceration. We are trying to prevent these deaths.

I would be negligent if I didn't say something about the policy language in this bill. The Governor has stated that he wants clean bills, without policy. Some of these ideas may be good, yet they should go on their own. Rep. Grossell's bill HF2944 has high long term costs for 25 years of supervision and highly intensive supervision for criminal sexual conduct felons from 5th degree up to 1st degree. In fiscal year 2043 it will cost the state \$18 million and the Community Corrections Act Counties \$35 million.

The DOC's request is not frivolous or glamorous, we are asking for the basic necessary funding to ensure adequate daily operations of our prisons and provide needed access to medication assisted treatment for offenders for a safe transition to the community. What is currently proposed could have serious impacts on the operation of our facilities and at some point, Minnesotans. I hope that as the bill travels through the process you will look at the potential impact on the department and the state of Minnesota.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tom Roy', written over a faint, light-colored signature line.

Tom Roy
Commissioner



Office of the Commissioner

445 Minnesota Street • Suite 1000 • Saint Paul, Minnesota 55101
Phone: 651.201.7160 • Fax: 651.297.5728 • TTY: 651.282.6555
Website: dps.mn.gov

April 23, 2018

Alcohol
and Gambling
Enforcement

Bureau of Criminal
Apprehension

Driver
and Vehicle
Services

Emergency
Communication
Networks

Homeland
Security and
Emergency
Management

Minnesota
State Patrol

Office of
Communications

Office of
Justice Programs

Office of
Pipeline Safety

Office of
Traffic Safety

State Fire
Marshal

Representative Knoblach
Chair, Minnesota House Ways and Means Committee
453 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
Saint Paul, MN 55155

Dear Chair Knoblach and Members,

Thank you for your continued support of the Department of Public Safety. The services we are entrusted to provide are core government functions that keep Minnesotans safe.

There are two investments proposed this year to help address the opioid epidemic; unfortunately, they were not funded in the House Omnibus Supplemental Public Safety Budget proposal. I hope you will reconsider.

As you know, Minnesota is experiencing a significant increase in the number of opioid deaths. In 2016, there were 675 drug overdoses, 395 of which were opioid related fatalities. Since 2008, there has been a 566 percent increase in methamphetamine seizures (amount of grams seized) and a 5,000 percent increase in heroin seizures (amount of grams seized).

The Governor included in his supplemental budget several investments in the Bureau of Criminal Apprehension (BCA) for additional drug investigators, an analyst and additional scientists at the drug chemistry lab. The small investments will make a significant difference in combatting this epidemic. These proposals are a piece of the Governor's Opioid Action Plan that would be funded from the General Fund in fiscal year 2019 and then from pharmaceutical companies through the "Penny-a-Pill" proposal in 2020 and 2021. The Governor recommends investing \$374,000 per year for two special agents and one criminal intelligence analyst to support local law enforcement agencies and efforts. This investment directs additional resources where they are urgently needed: complex drug investigations impacting our tribal communities and prescription pill diversion efforts.

April 23, 2018
Representative Knoblach
Page 2

The Governor also proposed adding six additional drug scientists at the BCA to reduce the turnaround time for drug evidence from 120 days to 30 days. This is a critical investment so that justice is not delayed for those who are destroying our communities, unnecessary court hearings can be eliminated, and individuals can access services they need such as participation in drug courts or treatment. Investing \$1.058 million in six additional drug scientists (including supplies and equipment) the first year, and \$780,000 ongoing, will significantly reduce the amount of time it takes to process drug evidence.

Our communities need these investments now. The number of deaths continues to grow, as do the number of drug seizures and evidence submitted to the BCA lab by local law enforcement agencies from around Minnesota.

We look forward to working with you on finding solutions to Minnesota's public safety needs.

Sincerely,

A handwritten signature in black ink, reading "Ramona L. Dohman". The signature is written in a cursive style with a long horizontal line extending to the right.

Ramona L. Dohman, Commissioner



Office of the Commissioner

445 Minnesota Street • Suite 1000 • Saint Paul, Minnesota 55101
Phone: 651.201.7160 • Fax: 651.297.5728 • TTY: 651.282.6555
Website: dps.mn.gov

April 23, 2018

Alcohol
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Enforcement
Bureau of Criminal
Apprehension

Driver
and Vehicle
Services

Emergency
Communication
Networks

Homeland
Security and
Emergency
Management

Minnesota
State Patrol

Office of
Communications

Office of
Justice Programs

Office of
Pipeline Safety

Office of
Traffic Safety

State Fire
Marshal

Representative Knoblach
Chair, Minnesota House Ways and Means Committee
453 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
Saint Paul, MN 55155

Dear Chair Knoblach and Members,

I am writing today with concerns about the House Omnibus Transportation Policy and Finance Bill (HF 4160). As the Governor clearly stated in his budget proposal, a priority for this short session must include fixing and completing the MNLARS system, providing support to Deputy Registrars who demonstrated loss due to the MNLARS rollout, and ensuring that Minnesotans and business partners can get the assistance they need when they try to contact the Department of Public Safety (DPS). We also agree with you regarding the reimbursement of deputy registrars, although we would prefer the Governor's proposed funding source of the General Fund.

You have heard from constituents in committee hearings and through emails and websites that they are frustrated when they can't get through to our Driver and Vehicle Services (DVS) division. They have told you, and us, that we need to provide better customer service, and they are right. For this reason, the Department needs funding to properly staff the Public Information Center (PIC) if we are to serve Minnesotans appropriately. This will ensure that we are able to assist them and stakeholders when they call and email the Department about vehicle registration or driver license issues.

As we have discussed over the past couple of years, there must be an ongoing stable funding source to support any computer system, including MNLARS. This bill does not provide a funding source for the ongoing maintenance and operation of the MNLARS system or the FAST driver license system.

There are also several policy provisions in this bill that are concerning. For example, several proposals in this bill would require programming in MNLARS. That additional programming requires funding and resources that are not included in this bill. Depending on implementation dates, this could alter the roadmap agreed to by

April 23, 2018
Representative Knoblach
Page 2

stakeholders, MNIT and DPS. Including these requests separately in a bill invalidates the process and slows the progress that stakeholders and business partners value and support.

The Department is very concerned about the policy and budget provisions included in this bill and other bills moving separately that would use resources from the Driver and Vehicle Services Special Revenue accounts. The Department relies on these funds to support law enforcement, business partners, stakeholders, and Minnesotans who contact Driver and Vehicle Services for assistance, and to execute the state and federal laws governing driver and vehicle services. This bill not only prevents the Department from providing appropriate and accurate customer service; this bill, in combination with other bills being considered this session, also reduces the amounts in the operating accounts to levels that may jeopardize the ability of the Department to operate or pay our obligations.

Thank you for considering our funding proposals and our concerns about the significant costs and potential unintended consequences of the policy provisions contained in this bill.

Sincerely,

A handwritten signature in cursive script that reads "Ramona L. Dohman". The signature is written in black ink and is positioned to the right of the word "Sincerely,".

Commissioner Ramona L. Dohman



Office of the Commissioner

445 Minnesota Street • Suite 1000 • Saint Paul, Minnesota 55101
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April 23, 2018

Alcohol
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Traffic Safety

State Fire
Marshal

Senator Julie Rosen
Chair, Minnesota Senate Finance Committee
95 University Avenue West
3235 Minnesota Senate Building
St. Paul, MN 55155

Dear Chair Rosen and Members,

Thank you for your continued support of the Department of Public Safety. The services we are entrusted to provide are core government functions that keep Minnesotans safe.

There are two investments proposed this year to help address the opioid epidemic; unfortunately, they were minimally funded in the Senate Omnibus Supplemental Public Safety Budget proposal. I hope you will reconsider.

As you know, Minnesota is experiencing a significant increase in the number of opioid deaths. In 2016, there were 675 drug overdoses, 395 of which were opioid related fatalities. Since 2008, there has been a 566 percent increase in methamphetamine seizures (amount of grams seized) and a 5,000 percent increase in heroin seizures (amount of grams seized).

The Governor included in his supplemental budget several investments in the Bureau of Criminal Apprehension (BCA) for additional drug investigators, an analyst and additional scientists at the drug chemistry lab. The small investments will make a significant difference in combatting this epidemic. These proposals are a piece of the Governor's Opioid Action Plan that would be funded from the General Fund in fiscal year 2019 and then from pharmaceutical companies through the "Penny-a-Pill" proposal in 2020 and 2021. The Governor recommends investing \$374,000 per year for two special agents and one criminal intelligence analyst to support local law enforcement agencies and efforts. This investment directs additional resources where they are urgently needed: complex drug investigations impacting our tribal communities and prescription pill diversion efforts.

April 23, 2018
Senator Julie Rosen
Page 2

The Governor also proposed adding six additional drug scientists at the BCA to reduce the turnaround time for drug evidence from 120 days to 30 days. This is a critical investment so that justice is not delayed for those who are destroying our communities, unnecessary court hearings can be eliminated, and individuals can access services they need such as participation in drug courts or treatment. Investing \$1.058 million in six additional drug scientists (including supplies and equipment) the first year, and \$780,000 ongoing, will significantly reduce the amount of time it takes to process drug evidence.

Our communities need these investments now. The number of deaths continues to grow, as do the number of drug seizures and evidence submitted to the BCA lab by local law enforcement agencies from around Minnesota.

Thank you for funding two drug chemistry scientists and supplies, but we ask that you consider fully investing in this important need ongoing.

We look forward to working with you on finding solutions to Minnesota's public safety needs.

Sincerely,

A handwritten signature in black ink, appearing to read "Ramona L. Dohman". The signature is fluid and cursive, with a long horizontal stroke at the end.

Ramona L. Dohman, Commissioner



Alcohol
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April 23, 2018

Senator Julie Rosen
Chair, Minnesota Senate Finance Committee
95 University Avenue West
3235 Minnesota Senate Building
St. Paul, MN 55155

Dear Chair Rosen,

I am writing today with concerns about the Senate Omnibus Transportation Policy and Finance Bill (SF 3806). As the Governor clearly stated in his budget proposal, a priority for this short session must include fixing and completing the MNLARS system, providing support to Deputy Registrars who demonstrated loss due to the MNLARS rollout, and ensuring that Minnesotans and business partners can get the assistance they need when they try to contact the Department of Public Safety (DPS).

Thank you for providing initial funding that allows the work to continue on the MNLARS vehicle system and the development of the FAST driver license system. We also agree with you regarding the reimbursement of deputy registrars, although we would prefer the Governor's proposed funding source of the General Fund.

You have heard from constituents in committee hearings and through emails and websites that they are frustrated when they can't get through to our Driver and Vehicle Services (DVS) division. They have told you, and us that we need to provide better customer service, and they are right. For this reason, the Department needs funding to properly staff the Public Information Center (PIC) if we are to serve Minnesotans appropriately. This will ensure that we are able to assist Minnesotans and stakeholders when they call and email the Department about vehicle registration or driver license issues.

Unfortunately, language in this bill specifically prohibits the Department from using funds allocated in this bill or previous appropriations to improve customer service. This is in direct contradiction to what stakeholders and your constituents are requesting.

April 23, 2018
Senator Julie Rosen
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The funding language for the MNLARS project in the bill prohibits the ability for the funds to be used for DPS, which limits necessary business involvement in the development of the system. The current language sets up barriers for the business to provide subject matter expertise on the statutory and business process requirements for the system. I would like to note that FAST also requires and relies on DVS staff for their subject matter expertise as they customize their product to comply with Minnesota law and ensure robust testing of the driver services system.

As we have discussed over the past couple of years, there must be an ongoing stable funding source to support any computer system, including MNLARS. This bill does not provide a funding source for the ongoing maintenance and operation of the MNLARS system or the FAST driver license system.

There are also several policy provisions in this bill that are concerning. For example, several proposals in this bill would require significant programming in MNLARS. That additional programming requires resources that are not included in this bill. Depending on implementation dates, this could alter the roadmap agreed to by MNIT and stakeholders, including the Department. Including these requests separately in a bill invalidates the process and slows the progress that stakeholders and business partners value and support.

Other proposals in this bill not directly related to the MNLARS rollout alter how motor vehicle services are delivered in Minnesota. These provisions have moved forward without consulting with the Department. At this time, for example, the Department does not support the proposal to change vehicle titling processing in Minnesota without a robust conversation about best practices and possible options to the "central issue" model.

The Department is very concerned about the policy and budget provisions included in this bill and other bills moving separately that would use resources from the Driver and Vehicle Services Special Revenue accounts. The Department relies on these funds to support law enforcement, business partners, stakeholders, and Minnesotans who contact Driver and Vehicle Services for assistance, and to execute the state and federal laws governing driver and vehicle services. This bill not only prevents the Department from providing appropriate and accurate customer service; this bill, in combination with other bills being considered this session, also reduces the amounts in the operating accounts to levels that may jeopardize the ability of the Department to operate or pay our obligations.

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Senator Julie Rosen
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Finally, the Department has concerns with the provision increasing the penalty for slow moving vehicles. Minnesota Statute section 169.15 already covers impeding traffic flow. This bill may unintentionally penalize those going the speed limit, but happen to be in the left lane while traffic flows at unsafe speeds. It will also cause confusion because individuals who receive a slow-moving violation may have been exceeding the speed limit.

Thank you for considering our funding proposals and our concerns about the significant costs and potential unintended consequences of the policy provisions contained in this bill.

Sincerely,

A handwritten signature in black ink that reads "Ramona L. Dohman". The signature is written in a cursive style with a large initial "R".

Commissioner Ramona L. Dohman



April 23, 2018

The Honorable Julie Rosen
Chair, Senate Finance Committee
Minnesota Senate
3235 Minnesota Senate Building
St. Paul, MN 55155

The Honorable Jim Knoblach
Chair, House Ways and Means Committee
Minnesota House of Representatives
453 State Office Building
St. Paul, MN 55155

The Honorable Richard Cohen
Ranking Minority Member, Senate Finance Committee
Minnesota Senate
2301 Minnesota Senate Building
St. Paul, MN 55155

The Honorable Lyndon Carlson Sr.
DFL Lead, House Ways and Means Committee
Minnesota House of Representatives
283 State Office Building
St. Paul, MN 55155

Dear Members of the Senate Finance Committee and House Ways and Means Committee:

As the commissioners of agencies whose core work involves helping Minnesotans and Minnesota businesses understand the laws passed by the Legislature and how those laws will be implemented, we write in opposition to new administrative rulemaking provisions in sections 2, 3, 5 and 7 in Article 3 of House File 4016, of the Omnibus State Government and Finance Bill.

These provisions are from HF 3445 / SF 3113. This bill seeks to establish a new process, much like rulemaking, for the formation and maintenance of a broadly-defined group of “policies.” We appreciate the changes to language offered since introduction of this bill, especially the removal of letters and contracts from the definition of “policy.” However, we remain opposed to these provisions because they create new costs that are not funded, will serve to slow down agency work, create redundancy, and have serious unintended consequences. Our concerns:

- **The definition of policy is overly broad.** By defining policy to include “written policy, guideline, bulletin, manual, or similar document providing an interpretation, clarification or explanation of a statute or rule to provide guidance for agency regulatory functions including but not limited to permits or enforcement actions,” we are concerned this bill casts a wider net than my be expected.
- **The bill sets an unfunded mandate for five-year public notice/comment/review of all ‘policy.’** The bill voids any ‘policy’ that does not go through a review every 5 years. This review must include a public notice and public comment period – both of which will incur administrative costs. The immediacy of the effective date on existing policies would create a significant administrative burden.
- **The bill creates redundancy by requiring the re-vetting of federally approved language.** The language creates redundancy in cases where agencies adopt federal policy in whole, because those policies already have been reviewed and vetted at the federal level.
- **The bill would prevent agencies from providing compliance guidance to regulated industries.** Agencies provide policy information to communicate with regulated entities, to send notification regarding new state and federal laws and regulations, and articulate procedures for complying with statutory requirements. The bill’s restrictions on providing this guidance may create delays and inefficiencies and cause market disruptions harming industry and consumers.

- **This bill expands the authority of legislative committees into the powers of the executive branch by requiring a delay of policy implementation during legislation session.** An example of unintended consequences is the impact of this provision on Minnesota college students who need financial aid. The bill would hamper the Office of Higher Education's ability to make timely updates to policies and procedures by which they administer financial aid programs. As a result, this bill could impact post-secondary students' financial ability to attend and complete college.
- **Not all agencies can maintain a public policy docket without necessary funding.** Requiring the collection and posting of every agency policy, guideline, bulletin, manual or similar document providing a clarification or explanation of a statute or rule to provide guidance for permits or enforcement actions can present staffing issues. Many agencies have full-time staff already devoted to rulemaking. This bill necessitates similar staffing for policies.
- **Removing the governor's waiver authority removes the only available recourse for an agency that believes an administrative law judge has misconstrued the law.** Even if the language were to provide authority to appeal an ALJ's decision to the Minnesota Court of Appeals, an appeal process will take more time and money than the current waiver option.

For these reasons we do not support these provisions, especially since bill advocates have not clearly articulated the specific problem(s) they seek to address. This bill contains several new administrative 'hoops' without providing commensurate value.

Sincerely,



Thomas Landwehr, Commissioner
MN Department of Natural Resources



John Linc Stine, Commissioner
MN Pollution Control Agency



Charles Zelle, Commissioner
MN Department of Transportation



Matt Massman, Commissioner
MN Department of Administration



Larry Pogemiller, Commissioner
MN Office of Higher Education



Ramona Dohman, Commissioner
MN Department of Public Safety



Jessica Looman
MN Department of Commerce



April 23, 2018

Dear Chair Knoblach and Members of the House Ways and Means Committee,

I am writing to express my strong opposition to the \$1,409,000 budget cut proposed for the Minnesota Department of Human Rights (MDHR) in HF4016, the Omnibus State Government Finance Supplemental Budget bill. This bill would delay services and deny justice to Minnesotans, eliminate the Department's ability to fulfill its statutory obligations, and cause 18 of the 45 people in the Department committed to protecting civil rights in Minnesota to lose their jobs. If this 30% cut were enacted, fewer people would work in the Department than when I started in 2011.

As you know, Governor Dayton has clearly stated he will veto any agency budget cut submitted to him. There is simply no need for it with a budget surplus of \$329 million. This drastic cut to MDHR is inconsistent with the values of Minnesota and the present needs of its people. Additionally, cuts to the Attorney General's Office, which provides legal services to MDHR, and requirements about IT spending allocations that negatively impact the Department's ability to serve Minnesotans are similarly problematic.

50 years ago, former Republican Governor Harold LeVander in his inauguration speech asked the Legislature to create the Human Rights Department. In his speech to the legislature he said,

"We need people who want to follow the commandment "Love one Another." Because our most critical problems are really people problems, we are going to have to try to understand people. How do we encourage society to accept the former convict? How do we motivate underprivileged children? How do we create true harmony among races? How do we assure our senior citizens of a meaningful life?"

The problems of a mature Minnesota reach beyond our towns, counties, and districts – they are problems for all of us. There is no clear-cut single answer to all of these problems. Their causes are complex and illusive. . . . In a word, I am asking Minnesota to lead. If we in Minnesota can't create racial harmony, we should ask no other state to do it.

Minnesotans heard Governor LeVander and we passed legislation providing meaningful educational and economic opportunities for Native Americans, legislation prohibiting housing discrimination, and created programs to assist those who had been formerly incarcerated. Governor LeVander's call for us to act and be steadfast in our determination to build bonds between people still remains true today, this is our work as a Department and as a State.

The Human Rights Department protects all people in Minnesota. In fulfilling the Human Rights Act, we (1) investigate complaints of discrimination, (2) ensure equal employment opportunities and equal pay to women is provided by contractors working for state and major metropolitan agencies, and (3) use education, conciliation, and conference to address discrimination and disparate outcomes in society.

AN EQUAL OPPORTUNITY EMPLOYER

Minnesota Department of Human Rights
Freeman Building • 625 Robert Street North • Saint Paul MN 55155
Tel: 651.539.1100 • MN Relay 711 or 1.800.627.3529 • Toll Free 800.657.3704 • Fax: 651.296.9042 • mn.gov/mdhr

In the past seven years, we have expanded civil rights for all in Minnesota. Since 2011, the Human Rights Department has also become statutorily responsible for: (1) helping those formerly incarcerated obtain employment, (2) assisting emerging entrepreneurs, and (3) reducing bullying in schools.

The most common type of discrimination complaints filed with MDHR are disability discrimination claims. A few examples of Minnesotans helped by the work of the people within Human Rights include:

- School girls who were sexually harassed in their school by a school official, as well as women being sexually harassed at their jobs;
- Unemployed individuals finding employment with state and metropolitan agency contractors;
- Formerly incarcerated individuals seeking a real opportunity to become employed;
- Men, women and children protected from employment, housing and education bias because of their race, ethnicity, and national origin;
- Men and women over 40 years of age who were terminated from their jobs;
- Children being bullied because someone doesn't appreciate them for who they are as people;
- Deaf and hard of hearing individuals who wished to communicate with their child's physician in a hospital, their mortgage banker when negotiating a loan, or being interrogated by the police.

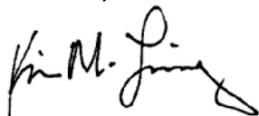
Governor Dayton recognizing the importance of ensuring civil rights for all throughout Minnesota previously sought funding for regional offices in Duluth, Rochester, and Worthington as part of his 2017 budget proposal. Chair Knoblach, you are acutely aware of the growing demand for our services through your efforts to establish a regional office in St. Cloud. Since establishment of the St. Cloud office, we have all seen the benefit of having a day-to-day staff presence in this community.

The legislature should be entertaining how to provide additional funding to Human Rights given the retreat by the federal government on civil rights. While this bill maintains funding for the St. Cloud office, the practical reality is that the office will be adversely impacted because of its reliance on support from our St. Paul office.

Budgets are moral documents in which we declare what is important to us, I would ask whether this budget proposal to reduce the number of people working in the Human Rights Department to historic lows reflects the values and needs of the people of Minnesota. I urge you and the members of the House Ways and Means committee to reject this drastic cut in HF4016. Let the people of Minnesota know that protecting civil rights is not a partisan issue.

Let us lead on civil rights and focus our collective attention in the legislative and executive branches of Minnesota government to the work of building an inclusive Minnesota for all people who call our state home. Please do not hesitate to contact Scott Beutel, MDHR's Public Policy Director, at scott.beutel@state.mn.us or (651) 231-2795 or myself with any questions.

Sincerely,



Kevin Lindsey
Commissioner

cc: Joane McAfee, Office of Governor Mark Dayton



Senator Julie Rosen
95 University Avenue West
Minnesota Senate Bldg., Room 3235
St. Paul, MN 55155

Delivered via Email

April 23, 2018

Dear Chair Rosen and Members of the Senate Finance Committee:

I am writing in regards to a small, but important, provision in the Omnibus Senate Judiciary and Public Safety Supplemental Budget bill (SF2755) that the Department of Human Rights is asking to have removed. The specific provision is contained in Section 22 (Lines 25.6-25.11) and prohibits the Department from requesting a spending increase in federal funds from the Legislative Advisory Commission (LAC) to expand our existing mediation program for employment disputes.

Employers, employees, and those that represent them have encouraged the Department to increase its voluntary mediation program. Removing this section of the bill will have no fiscal impact on current budget discussions and will allow the normal LAC process for federal funds approval to continue where there is currently a “further review” recommendation we are discussing with Judiciary Chair Limmer.

Mediation Process

The Minnesota Department of Human Rights is a neutral agency that seeks to resolve complaints of discrimination.¹ Employment cases consistently comprise the majority of the Department’s workload sometimes reaching 70% of our overall caseload. After the charging party files an administrative charge alleging employment discrimination, we contact the employee and employer to ask them if they are interested in participating in mediation.

The decision to participate in mediation is completely voluntary. If either party turns down mediation, the charge will be forwarded to an investigator for investigation. If the parties choose mediation, both parties also participate in the selection of the mediator.

If the parties reach an agreement during mediation, they enter into a private settlement agreement and the Department closes its administrative file. If the parties do not reach an agreement during mediation, the charge will be assigned to an investigator for investigation. No matter the result of the mediation process, the mediator provides no information to the Department as the mediation process is confidential.

¹ A chart of MDHR’s full complaint handling process can be found here: <https://mn.gov/mdhr/intake/what-happens-next/process-chart.jsp>

AN EQUAL OPPORTUNITY EMPLOYER

Minnesota Department of Human Rights
Freeman Building • 625 Robert Street North • Saint Paul MN 55155
Tel: 651.539.1100 • MN Relay 711 or 1.800.627.3529 • Toll Free 800.657.3704 • Fax: 651.296.9042 • mn.gov/mdhr

Benefits to Mediation

There are multiple benefits for employers and employees to participate in the Department's voluntary mediation program. Some of those benefits for employers and employees are:

- **Preserve relationship** – We often hear from employees and employers that they are looking to resolve the issue between them without damaging their relationship. Mediators do not decide who is right or wrong or issue a decision. Instead, the mediator helps the parties determine if they can reach a compromise.
- **Autonomy** – The parties have autonomy to decide whether they wish to participate in mediation. If they choose to participate in mediation, the parties decide when the mediation will be held and who will facilitate their mediation.
- **Saves time** – Mediation is offered to the parties before the initiation of the Department's investigation process. Mediation is conducted in an informal manner and is often completed within three to four hours.
- **Effective** – Parties have the ability to have input in framing the final resolution with a neutral third party that is working solely to assist them in finding a solution.
- **Reduce expense** – Parties don't need to be represented by an attorney during mediation. Because many of today's Human Resource (HR) professionals possess interpersonal emotional intelligence skills and work extremely well in informal mediation settings, employers often have someone from their HR department lead their mediation effort.

This particular request will help ensure that parties that wish to use mediation have sufficient mediation resources available to them.

On behalf of the employers and employees that would benefit from our voluntary mediation program, I ask that you not move forward with the provision in the proposed Omnibus Senate Judiciary and Public Safety Supplemental Budget bill (SF2755).

If you have additional questions or would like to discuss this issue, you can reach me at 612.807.5538. Thank you for your time and consideration.

Sincerely,



Kevin Lindsey
Commissioner

cc: Myron Frans, Commissioner of Minnesota Management and Budget
Erin Campbell, Office of Governor Mark Dayton
Joane McAfee, Office of Governor Mark Dayton



Protecting, Maintaining and Improving the Health of All Minnesotans

April 23, 2018

Senator Julie Rosen
Chair, Finance Committee
3235 Minnesota Senate Building
95 University Avenue W.
Saint Paul, MN 55155

Dear Senator Rosen,

I appreciate the work by Senator Benson and the entire HHS committee on the Senate's 2018 Supplemental Health and Human Services budget bill (SF 2505). The bill acknowledges the important role public health agencies play in tackling society's most challenging issues, including elder abuse and the opioid epidemic.

Prevention is cheaper than treatment and it is our best long-term strategy for turning the curve on health costs and improving Minnesotans' quality of life. I value the additional investments this bill makes in prevention and public health. However, as I expressed in my testimony to the Senate Health and Human Services Finance Committee, I am concerned that many of the Governor's supplemental budget proposals were excluded.

1. The Governor's supplemental budget increased safe drinking water fees by 28 cents per connection per month. This fee has not increased since 2005 and this small increase is essential for MDH to maintain our proactive efforts with public water suppliers to ensure that Minnesotans enjoy safe drinking water. The technical assistance that MDH provides to public water suppliers is especially valuable for smaller and rural systems that lack resources and technical capacity. Without this funding, MDH will have to reassess the services we provide to public water suppliers and consider going to a reactive, rather than a proactive model, waiting until a system is out of compliance with Safe Drinking Water standards before we step in. I urge the Senate to consider including this proposal in its supplemental spending bill.
2. The Governor's Budget included a realignment of medical cannabis program appropriations from the state government special revenue (SGSR) fund to spend fees paid by manufacturers and patients. This appropriation realignment ensures consistent funding for Minnesota's 24/7 patient registry database, expert regulatory staff for manufacturer

oversight, and staffing of a busy call center. This adjustment does not change current law or fees and has no General Fund impact or cost to Minnesota taxpayers. I encourage you to support Minnesota's Medical Cannabis program by allowing it to fully and adequately serve those Minnesotans who need it.

3. On the prevention of elder abuse, I appreciate the collaborative efforts by Senators Fischbach, Lourey and Housley to make immediate and meaningful changes in law this Session. Senate File 3437 takes us in the right direction. I look forward to continuing to work to achieve enactment of stand-alone legislation that incorporates additional ideas from the Office of the Legislative Auditor (OLA) evaluation and the consumer working group's report, which informed the Governor's budget proposal on this urgent challenge.
4. Governor Dayton's opioid abuse prevention proposals would annually invest about \$12 million in high-impact strategies to treat and prevent opioid abuse, especially in communities disproportionately impacted by opioid addiction. Governor Dayton's Opioid Stewardship Program would fund opioid abuse prevention and treatment strategies in every corner of Minnesota. The Stewardship Program would require that opioid manufacturers pay a stewardship fee to fund a comprehensive prevention, treatment, and recovery effort that would curb opioid abuse and save lives. Senator Rosen, you have individually shown great courage on this issue and I applaud you for including a similar proposal in your legislation. I urge you to send the opioid legislation as a stand-alone bill so it can be addressed outside of the supplemental budget negotiations.
5. MDH agrees that sustaining a statewide Tobacco Quitline is important. However, it was disappointing to see funding for a treatment service – even one as valuable as the Quitline – coming at the expense of almost \$300,000 in SFY 19, and even more money in the tails, of local counties' public health funding. The Statewide Health Improvement Partnership (SHIP) supports local schools, businesses, apartment owners/managers, farmers, community groups, senior organizations, hospitals, clinics, chambers of commerce, faith organizations, and many others in creating opportunities for active living, healthy eating, and tobacco-free living. SHIP supports smoke-free spaces, including public housing, among many other strategies to prevent the harmful effects and high health care costs of smoking. It is particularly important to maintain nicotine addiction prevention efforts in light of new data showing that e-cigarettes are attracting young people in greater numbers than ever before.
6. Lastly, I want to draw your attention to an urgent General Fund request included in the Governor's bonding bill -- \$2.37 million in one-time resources to replace outdated equipment in our public health laboratory. Expensive and essential items like a gamma spectrometer, gas proportional counter, liquid scintillation counter, gas chromatograph,

and triple quad mass spectrometer, are among the many items needed to ensure our Public Health Lab continues to provide timely and urgent testing of health threats including infectious disease agents like Ebola, bioterrorism agents, PFCs in water, and radiation.

Minnesota is overall a healthy state but faces some significant challenges in maintaining that status. Governor Dayton's budget addressed these challenges in a strategic and effective way. His proposed investments benefit the health of Minnesotans today and into the future. I thank you and Chair Knobloch for your hard work this session and I pledge to continue working with you on a budget that works to make common-sense health care reforms and smart public health investments to protect and enhance the quality of life for all Minnesotans.

Sincerely,

A handwritten signature in black ink, appearing to read "Jan Malcolm", written in a cursive style.

Jan Malcolm
Commissioner
Minnesota Department of Health

Cc: Governor Mark Dayton
Senator Michelle Benson, Chair, Health and Human Services Finance Committee
Senator Richard Cohen, Minority Lead, Finance Committee
Senator Tony Lourey, Minority Lead, Health and Human Services Finance Committee



**Minnesota Department of Human Services
Elmer L. Andersen Building
Acting Commissioner Chuck Johnson
Post Office Box 64998
St. Paul, Minnesota 55164-0998**

April 23, 2018

The Honorable Julie Rosen
Chair, Finance Committee
Minnesota Senate Bldg., Room 3235
95 University Avenue W.
St. Paul, Minnesota 55155

Re: 2018 Health and Human Services Omnibus Bill

Dear Chair Rosen:

As you prepare to finalize the Senate position in each of the omnibus bills, I want to take this opportunity to write and highlight my priorities for human services and draw your attention to concerns I have in the bills before your committee. I truly appreciate your efforts over the last few months on behalf of the over 1 million Minnesotans we serve at the Department of Human Services and I hope we can find agreement on the most pressing needs this session.

Protecting seniors and vulnerable adults from abuse is one of the highest priorities for this legislative session. Governor Dayton included a robust package of proposals to do this in his budget. I am pleased that Senator Housley's bill was debated and approved by the Health and Human Services Finance and Policy Committee and is traveling as stand-alone legislation. We stand ready to work with you on this critical issue. I am hopeful that the Senate will properly fund the critical items needed to ensure our seniors are safe, including: increased staff for the Ombudsman for Long-Term Care to meet consumer needs; increased capacity for the Minnesota Adult Abuse Reporting Center (MAARC) to create a true single entry point for reports of suspected maltreatment; investments in process improvements for notifying law enforcement; and providing grants to local communities so they can also better respond to this crisis.

As you are aware, one of the Governor's main priorities this session is to address the opioid crisis in our state. Opioid addiction is devastating families and communities across Minnesota. We need to make key investments such as the grants proposed in the Governor's budget to help local health and social service agencies and law enforcement work together. We can fund this by implementing a stewardship fee on pharmaceutical companies, who can and should help offset the costs for prevention and treatment of opioid addiction. We need to work together to address this crisis outside of the supplemental budget process. The Governor has requested this important matter be addressed in a stand-alone bill.

The Honorable Julie Rosen
April 23, 2018

The MinnesotaCare Buy-In proposal is a sensible option to address increasing cost and reduced access to care for people in the individual market. This measure would provide an affordable coverage option for approximately 100,000 Minnesotans who purchase coverage in the individual market. I know the Legislature is concerned about the individual market for health care, and by 2020 reinsurance is scheduled to end. This proposal is a smart solution for Minnesotans. The Governor also proposed a repeal of the provider tax sunset. These proposals together help ensure the future financial stability of the health care system in Minnesota.

There are a number of provisions from the Governor's proposals you have included in your bill and I would like to underscore their importance and thank you for their inclusion. Bringing forward the Governor's proposal to make program integrity improvements to the non-emergency medical transportation system will help to ensure that Minnesota's resources are used most efficiently to serve Medical Assistance enrollees. I also want to thank you for investing in School Linked Mental Health Grants. Your support of this successful program will serve about 7,500 more students who need services across Minnesota. Finally, I am glad you incorporated the refinancing of the Consolidated Chemical Dependency Treatment Fund operations account that provides greater transparency, eliminates recurring excess balances in the special revenue account and ultimately generates savings for the General Fund. These proposals are clearly priorities for all of us and I appreciate your work to include them.

I am pleased that portions of the Governor's proposal to improve child care assistance programs (CCAP) are also in the bill. These measures will provide greater access to affordable child care for working families in Minnesota and in particular address the needs of homeless families. However, I am disappointed that the bill lacks important health and safety changes for legal non-licensed providers and due process rights for providers. Without these important provisions, the state is out of compliance with federal law and potentially subject to financial penalties. Minnesota is one of very few states that are still out of compliance with federal child care requirements and I hope we can continue to work together to solve this problem that has been before us for the last three years.

It is disappointing that the Governor's proposed rate increase for Personal Care Assistants (PCA) is not included in the bill. The workforce shortage is a serious issue and PCAs make it possible for people with disabilities to live in their homes, get to work and manage their daily living. This modest request will help maintain these needed services.

Another proposal from the Governor's package that is not included in the Senate bill relates to the increased fees the federal government has applied to child support cases of families not receiving public assistance, from \$25 to \$35. There are two options for addressing this shortfall: You may increase the fee in statute or allocate the funding as we proposed. Ultimately, inaction by the legislature results in a loss of funds to counties, not the state, because counties keep the nonfederal share of the fee.

Finally, I am troubled you have not included the Governor's proposal to properly place financial responsibility for the Supreme Court of Appeals Panel (SCAP) in the Minnesota Judicial Branch budget. The SCAP panels hear and decide reduction in custody petitions of individuals civilly committed in our Minnesota Sex Offender Program and those committed as Mentally Ill and Dangerous. This request is needed to avoid the conflict of interest wherein DHS provides the funding for the panel that we appear before as a party.

The Honorable Julie Rosen
April 23, 2018

The Senate bills include two provisions that will enhance community engagement and our ability to better serve targeted populations. While Minnesota has enjoyed top rankings in many national categories of services, we perform poorly when it comes to outcomes for American Indian and African American people. The proposals to extend the American Indian advisory councils another five years will help the department continue to work directly with the community and to provide culturally appropriate mental health, chemical dependency and child welfare services to our tribal partners. Similarly, African American children are removed from their homes at rate that is more than three times that of their white counterparts. Your inclusion of the African American child welfare workgroup will help to formulate more informed policies and procedures relating to African American child welfare services and help to ensure African American families are provided with the services they need to care for their children in their own homes.

I appreciate that you included the elimination of the county child protection grant withhold requirement. We too recognize that in order for the counties to respond effectively to Minnesota's child protection needs they must have predictable funding levels in order to hire permanent staff to meet performance standards.

The Senate bill takes steps to dedicate resources to help stabilize the long-term care workforce and to support reliable and quality services for our citizens with disabilities. The department stands ready to work with you to help ensure that the Disability Waiver Rate System legislation meets federal requirements. We share the priority that funding be dedicated to improving the wages of the direct care workers. Finally, the 21st Century Cures Act requires electronic visit verification for personal care services by 2019. The steps the Senate bill is taking to bring Minnesota into federal compliance is commendable and I appreciate your efforts.

There are several proposals currently in your bill that I am concerned about and ask that you consider removing. First there is a provision addressing the community placement of clients with violent or assaultive behaviors. The department is responsible for helping to re-integrate people who have been treated in one of our facilities back into the community. There are times when those placements are court ordered and approved. Encumbering the department with this language could present legal challenges in the future when the department is unable to take the necessary steps for community integration of a person that is no longer appropriately served in one of our facilities.

Another proposal in your bill I am concerned about allows health care providers to access an enhanced payment rate for Early and Periodic Screening, Diagnostic and Treatment in some situations without performing all the required screenings that meet the recommendations by the American Academy of Pediatrics. The enhanced rate is designed to be an incentive for following best practices and the Senate proposal would diminish that incentive.

The legislation also intends to repurpose \$14 million the department dedicated to Direct Care and Treatment (DCT) to invest in needed technology improvements. These funds will be used to increase patient and staff safety through improved technology and to implement an Electronic Health Record system for DCT. I see this action as impinging on executive branch authority to manage programs, services and resources as best we can to meet the multiple pressures of administering services. It moves DHS backward in our efforts to improve safety at our direct care facilities.

The Honorable Julie Rosen
April 23, 2018

I invite additional conversation on two topics. The first is the provision that asks the department to draft legislation to create a new state agency and pulls functions from both the Department of Human Services and Health. There are some units within these areas that may, by federal law, remain with human services. I'd like to know from the Senate the intent of the new agency and for you to provide additional detail so my agency can be responsive.

Next, there are issues with your legislation related to the new legislative budget office. The requirement to share data used in the development of a fiscal note, regardless of classification, with the Legislative Budget Office is problematic due to data privacy concerns and because the department is subject to numerous federal laws that prohibit the sharing of private data on individuals. This issue must be addressed. Additionally, the process envisioned for the Legislative Budget Office to review 300 pilot fiscal notes is unclear. Two entities coordinating identical fiscal notes will create confusion and delays.

Thank you for your consideration of these comments. I look forward to working with you now and through conference committee on these important issues. As always, we at DHS stand ready to provide you any additional information or assistance you may need in the coming days and weeks.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Johnson', with a long horizontal stroke extending to the right.

Charles E. Johnson
Acting Commissioner

c.c. The Honorable Michelle Benson
The Honorable Jim Abeler
The Honorable Tony Lourey
The Honorable Jeff Hayden
The Honorable Mary Kiffmeyer

April 23, 2018

Senator Julie Rosen, Chair
Senate Finance Committee
Minnesota Senate Building, Room 3235
95 University Avenue W.
St. Paul, MN 55155

Senator Rosen:

I would like to share with you my concerns about SF 3806, the supplemental transportation finance bill. Though the bill contains a number of provisions that would impact the Metropolitan Council, I will focus on a few that are particularly problematic.

An amendment was added during the mark-up of the bill that would prohibit the construction of a light rail transit line in a shared use rail corridor for freight rail and light rail transit. This provision would effectively prohibit the construction of the Green Line Extension (Southwest LRT) and Blue Line Extension (Bottineau LRT). These projects have widespread support from the local communities and businesses that have worked for years to bring them forward. This provision was added without input from project stakeholders because the underlying bill that was added via amendment was not heard in the Senate and no testimony was taken during the mark-up. Though the provision prohibiting colocation has already been adopted and passed out of the Transportation Committee, I would like to note that there are many LRT systems in the country that are operating in shared corridors with freight rail, including Dallas (DART), New Jersey (NJT), Denver (RTD), Los Angeles (LACMTA), Sacramento (RTD), St. Louis (Bi-State), Charlotte (LYNX), Portland (TriMet), and San Jose (VTA). Design criteria for our region's LRT projects is based on input from LRT and freight rail operations experts, state requirements, Federal Railroad Administration requirements, and current standards of practice to safely accommodate shared use. I would also note that the communities along each of these LRT lines have provided municipal consent to the projects -- twice, in the case of Southwest LRT.

SF 3806 also includes provisions that would separate the Metropolitan Council's transportation components from the rest of the Council's divisions for finance and budgeting purposes, requiring that these components use the state accounting system and switch to the state fiscal year. Transitioning from calendar year to state fiscal year is complicated, labor intensive, and expensive. Doing this for only a portion of the Council's budget and managing under two fiscal calendars is even more so. As reflected in the fiscal note analysis, this transition would cost millions of dollars. With still unresolved complications across procurement, payroll, collections, reporting, closing auditing and other financial activities, these estimated costs are likely understated.

We have existing avenues for providing budget information to the legislature that make this proposal unnecessary. In fact, there are a number of provisions in the bill related to financial reporting in addition to these major accounting system changes.

In addition, the State Auditor audits the Council's transportation financial activity in publicly available reports. The Council presents proposed capital and operating budgets to the Legislative Commission on Metropolitan Government every year and participates in the biennial budget setting process with the legislature. This past year, the Office of the Legislative Auditor began its quarterly reviews of our transportation and transit budgets. The OLA has provided recommendations on how we can improve the clarity of our financial reporting to the Legislature, and we have committed to incorporating those recommendations into our practices. We know that any confusion or misunderstanding caused by our financial reports creates unnecessary work for both the Legislature and the Metropolitan Council. In our responses to the OLA reports, we have committed to clear and transparent financial reporting that meets the needs of legislature. These improvements can be accomplished without millions of dollars of administrative and systems investments.

The bill also requires three revenue scenarios to be included in the Transportation Policy Plan (TPP) – fully constrained, partially constrained, and increased revenue. As the region's federally required long-range plan, the TPP demonstrates how the region intends to invest in the entire transportation system to meet certain federal expectations. We have concerns that delivering a long-range plan based on reduced funding would require a prioritization of projects across the region that could be afforded under that plan, and this would create inconsistencies with other plans and assumptions. The region's ability to show that our comprehensive financial assumptions will allow us to maintain our assets, particularly assets purchased or built with federal funds, is essential to complying with federal law. Our highway and transit systems receive federal funds that are matched by local funds and these funds must grow over time to keep pace with our needs, particularly preservation of the highway and transit systems. If we demonstrate scenarios that show we cannot meet our needs, the federal government may ask us to prioritize funds differently than we would prefer, taking away local control.

Finally, SF 3806 adds a definition of operating costs for the state share of light rail operating expenses that expressly excludes costs incurred to enhance or expand the existing system. This language would effectively cap service levels at the time of enactment, limiting the ability to increase frequency or service hours in the future. It would also remove the state's share of LRT operating costs, as provided under current law, for Bottineau LRT and any other future lines.

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

Regards,



Alene Tchourumoff
Chair, Metropolitan Council



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www.mnhousing.gov

April 23, 2018

The Honorable Julie Rosen, Chair
Finance Committee
Minnesota Senate

The Honorable Richard Cohen, Ranking Member
Finance Committee
Minnesota Senate

RE: SF 2893, Omnibus Agriculture, Rural Development and Housing Finance Bill

Dear Legislators,

I am writing to provide comments from Minnesota Housing on the Omnibus Agriculture, Rural Development and Housing Finance Bill.

Homework Starts with Home

The Governor included \$4 million in his supplemental budget for Homework Starts with Home and made the program permanent. This funding is used to provide short-term and long-term rental assistance to families with school-aged children that are homeless or highly mobile. The initiative would help provide stable housing for 500 families, including an estimated 1,000 Minnesota kids. This initiative builds on the success of a pilot program that created housing stability for 90 percent of participants and strengthened attendance for students. There is statewide need for this funding. In the 2016-17 school year, students facing homelessness attended 1,241 different schools located across 77 of Minnesota's 87 counties. Unfortunately the Senate omnibus bill does not include funding for Homework Starts with Home. We hope that as the budget process continues, this important initiative will be funded at the level proposed by the Governor.

Tax-Exempt Bond Reform

The bill includes SF 3700 which pertains to tax-exempt bond reform. A work group of housing stakeholders met over the course of the summer and fall last year and agreed to five consensus items that should make up any bond reform package. These five items are reflected in the omnibus bill. With some technical changes, we believe these consensus items will have a positive impact and produce additional affordable rental units. We will continue to work with the authors to address the technical changes.

Manufactured Home Park Infrastructure and Acquisition

This bill includes several provisions to allow funding for manufactured home park infrastructure and acquisition of manufactured home parks:

- It establishes manufactured home parks as eligible applicants for the Challenge program and makes financing for manufactured home parks an eligible activity
- It establishes the financing of acquisition, improvement and infrastructure of manufactured home parks as an eligible use of Housing Infrastructure Bond proceeds
- It establishes acquisition of manufactured home parks as an eligible use of the Manufactured Home Park Redevelopment Program, a program which has not received appropriations since 2001

While the bill makes all of these statutory changes, it does not include any additional appropriations to meet these needs. We believe that manufactured housing is an important affordable housing resource and that an appropriation is the best way to fund manufactured home park acquisition and infrastructure. An appropriation is a flexible funding tool that can meet time-sensitive infrastructure or acquisition needs. Housing Infrastructure Bonds are a complex funding tool that requires advanced planning and specific plans for use and are likely not the best fit for financing manufactured home park infrastructure and acquisition.

Housing Affordability Fund

We have serious concerns about Section 42 of the bill which requires the Agency to designate 10 percent of housing affordability fund (pool 3) dollars for single family homeownership development in cities with fewer than 10,000 residents and for manufactured housing projects.

The Minnesota Housing statute, under the provisions of 462A.04, vests management and control of the Agency solely in the Agency's Board of Directors. The Board approves the Agency's financing and policy decisions. In some previous years, the Agency has designated financial resources generated from its financing activities to fund activities that are allowed under provisions of 462A. These resources, if any, are determined on an annual basis following the completion of the Agency's annual financial audit and after taking into account the capital requirements imposed by rating agencies to retain the Agency's credit ratings. Such resources have been referred to by the Agency as its housing affordability fund (or pool 3). We have significant concerns that Section 42 of the bill would take away the control that is vested in the Agency's Board by statute, and, as a result, could negatively affect the Agency's long-term financial soundness and stability as well as its credit rating. It is important to the Agency and the credit rating agencies that the Board maintain its ability to manage agency resources and to sustain the Agency's financial soundness and stability.

While we do not oppose the activities proposed in Section 42 of the bill, we believe that if the Legislature would like more of these activities to occur, it should consider providing appropriations to do so.

Annually, the Agency uses a public process to establish a program budget, referred to as its Affordable Housing Plan. The Agency's Board adopts the Affordable Housing Plan each year and uses the plan to guide its allocation of resources throughout the year. We encourage those supporting the greater use of Agency resources for manufactured housing and for housing development in communities with a population under 10,000 to submit comments to the Agency as part of the public input process, which will commence in May of this year.

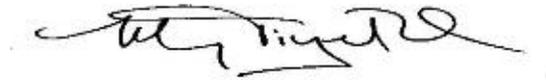
Report on Local Zoning

Section 43 includes a requirement for Minnesota Housing to conduct a study on the effects of local zoning decisions, regulations and fees that raise the cost of affordable housing development. We

understand that costs of housing development are of significant interest and appreciated the opportunity to present on that topic earlier this session. We would like to have further discussion about whether Minnesota Housing is the agency best-suited to conduct such a study. We are also concerned that there is no funding provided for the study.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Mary Tingerthal". The signature is fluid and cursive, with a prominent loop at the end.

Mary Tingerthal
Commissioner

cc: Members of the Senate Finance Committee



April 23, 2018

Representative Jim Knoblach
Chair, Ways and Means Committee
Minnesota House
100 Rev. Dr. Martin Luther King Jr. Blvd.
Saint Paul, MN 55155

Representative Knoblach,

I write to express my strong concerns regarding several provisions of House File 4016.

Most concerning, HF 4016 would require that all enterprise software projects be performed through a vendor contract unless the law appropriating money for the project expressly directs the state chief information officer to design or build the project in-house.” Considering the fact that the vast majority of IT projects are funded through agency operating and program budgets, not through specific appropriations for an IT project, this provision should be understood as effectively mandating the outsourcing of nearly all enterprise software projects undertaken within the executive branch.

Hundreds of IT projects of varying size are initiated each year within the executive branch – many to add additional features to an existing enterprise software application, perform a version upgrade, or comply with a change in federal regulations or compliance requirements for instance. In other instances, they are initiated to implement one of the many changes in programs or services put in law by the legislature every year. In 2017 alone, 270 IT projects were initiated in the executive branch, most of them related to software applications.

MNIT works with agencies to conduct a build or buy analysis when a new software application is being considered. In many instances, this results in the purchase of a vendor product and/or a contract with a vendor for implementation. We greatly value our relationships with the many IT vendor partners that help us deliver critical government services. But requiring in law that all enterprise software-related project work be outsourced unless the legislature has explicitly directed that it be done in-house would have a debilitating effect on project timelines and significantly increase project costs.

One can easily envision a scenario where a federal agency changes reporting requirements for a federally-funded program and makes federal funding contingent upon compliance. If compliance with the new reporting requirements necessitates software changes in an existing enterprise application and the legislature is out of session, the agency would be forced to contract with a vendor when they could much more cost-effectively task their dedicated MNIT staff with completing the project. The agency would be forced to issue an RFP for a vendor to do the work, significantly increasing the time and cost involved. In certain cases, with the state currently reliant on some decades-old enterprise software applications, it may be extremely difficult to find a vendor to do the work; and moreover, it would likely require an agency to pay a vendor for months of work simply to make

them familiar with and capable of making changes in our existing legacy systems without introducing an unacceptable level of risk.

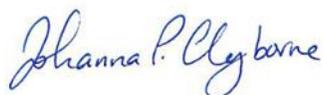
Many current MNIT staff have worked on our legacy IT systems for years if not decades. They have made a commitment to work for the State of Minnesota when, in many cases, they could have received significantly more compensation for work in the private sector. Assuming that a vendor will provide better and more cost-effective service on enterprise software project work in all cases does a disservice to these dedicated state employees and undermines the commitment they have made as public servants.

Secondly, I want to relay my strong opposition to cutting other agencies' budgets in order to fund continued work on the MNLARS system. As the Governor has made very clear, these agencies and the Minnesotans they serve should not be punished for IT system shortcomings that they had no role in creating. We all recognize there is much work ahead to improve and complete the MNLARS system and improve IT project oversight processes to avoid similarly troubled system rollouts in the future. Rewaging settled disputes over the source of already-appropriated dollars is simply a distraction from the important work ahead in making the MNLARS system what it needs to be for deputy registrars and other system stakeholders.

Thirdly, I want to relay my concerns with the unfunded mandate in the bill that would require agencies to spend at least 3.5% of their IT budget on cybersecurity. I appreciate the recognition that greater investment is needed in the area of cybersecurity. However, I am greatly concerned that, with no new funding being provided in the bill for cybersecurity, this mandate will result in IT budget cuts that will ultimately exacerbate our existing IT challenges. It may result in the delay of system modernization projects, reduced investment in application maintenance and support, or delays in the replacement of hardware and other equipment that increases the risk of hardware failures and system outages. I urge you to reconsider funding of the Governor's recommendation for cybersecurity, which would provide \$19.7 million in new funding for cybersecurity this biennium and finally fund the data center consolidation work that is needed to fully realize the security benefits and operational efficiencies of the 2011 IT consolidation law.

We at Minnesota IT Services stand ready to work with you to improve state government IT and bolster our cybersecurity defenses. Please do not hesitate to reach out if there is any additional information I can provide moving forward.

Sincerely,

A handwritten signature in blue ink that reads "Johanna P. Clyborne". The signature is written in a cursive, flowing style.

Johanna Clyborne
Commissioner and State Chief Information Officer
Minnesota IT Services

Cc: Rep. Lyndon Carlson, Rep. Sarah Anderson



April 23, 2018

Senator Julie Rosen
Chair, Senate Finance Committee
Minnesota Senate
95 University Ave W.
Saint Paul, MN 55155

Senator Rosen,

I write to express my strong concerns regarding several provisions of the Senate Omnibus State Government Finance and Policy Bill (SF 3764).

In particular, I strongly oppose the abolishment of Minnesota IT Services and the rollback of the IT consolidation law. While I recognize the challenges we have faced with the rollout of the MNLARS system and the need for ongoing improvement of MN.IT's service delivery processes, I struggle to see how making MNIT and its 2,000+ employees a division of another state agency would serve to address those challenges. Addressing our state's fundamental IT challenges will require years of sustained, focused effort on multiple fronts, including reforming policies and processes and investing in modernized systems and services. This effort represents an oversimplified solution to a complex problem. It would largely return the state to the previous mode of IT operations that existed prior to the 2011 IT consolidation law, opening the door once again for duplicative IT investments and services - multiple help desks, multiple approaches to laptop/desktop services, and multiple contracts with the same vendor for the same services.

This patchwork approach to delivering IT is what MNIT inherited in 2011, and MNIT has worked incrementally since that time to bring coherence and consistency to IT at the enterprise level through IT consolidation. Rather than provide the resources that are needed to accelerate and enable IT consolidation by funding the governor's recommendations around cybersecurity and data center consolidation, this bill moves the state back to decentralized and uncoordinated IT. Under the model envisioned in your bill, MNIT's ability to leverage the full buying power of the executive branch would be significantly limited, as would MNIT's ability to shape a less redundant and more coherent, unified IT footprint. The legislature's visibility into the State's total IT spend and operations that was gained through IT consolidation would be lost. And in the end, more IT staff positions and funding would likely be needed to manage a more diverse set of IT systems and services.

Some have argued in favor of this bill by saying that it would free agencies to leverage the skills and expertise of the private sector. Such a perspective completely misunderstands MNIT's current role as a broker and coordinator of private sector IT services and tools for state agencies. MNIT staff work alongside our agency business partners to help define requirements for any new IT system. We then help the agency determine whether software to meet that need is available in the market. At the same time, MNIT works to identify

658 Cedar Street, St. Paul, MN 55155

whether there is existing software owned by the state already that can be leveraged to meet the need. Where there is sufficient demand for a product across agencies, MNIT works to negotiate enterprise agreements with private sector vendors, allowing us to leverage multiple agencies' buying power to drive down costs and maximize the value of purchases. This consolidated buying power has already resulted in tens of millions of dollars in savings and cost avoidance by rolling individual agency contracts into enterprise agreements signed directly with MNIT. But under this bill, responsibility for procuring much of IT would return to individual agencies, and these savings and long-term cost avoidance would be lost.

This move back to decentralization is contrary to the direction of the vast majority of state governments and many large private sector organizations. All but five states are embracing IT consolidation as a means to reduce costs, increase security, and improve inter-agency coordination. Minnesota has been recognized as a leader in our efforts to promote shared and centralized IT services. Rather than moving the state backward, our IT consolidation efforts should be funded and accelerated to meet the increasing demand for integrated and modern IT and defend our state from increasing cyber threats to government operations and citizen data.

When the consolidation law was passed, it was one of the largest reorganizations of state government in decades. And it was the right move to make. Unlike other states, however, no funding was provided to support the physical consolidation of IT systems or the redesign and standardization of unified IT services. This has necessitated an incremental approach to consolidation that has brought significant change to state government operations. MNIT's attempts to seek funding for data center consolidation - a foundational transition for any organization seeking to consolidate IT - have been unsuccessful. And so, after mandating a significant paradigm shift and reform of IT in 2011, without recognition of the effort and resources that would be required to make it successful, this legislation would turn back the effort before its benefits were fully realized and once again mandate a reorganization of IT without providing any additional resources to enable it.

The fact is that IT consolidation was not a silver bullet to overcome our state's IT challenges. Undoing that consolidation will not be a silver bullet, either. It will return us to a less efficient, less cost-effective way of doing business. We recognize that there is much work ahead to become the fully-unified, effective and efficient IT organization that is needed in the digital era of government. This legislation, however, simply provides the appearance of reform, by reorganizing executive branch IT functions, while doing nothing to address the underlying IT challenges we face as a state. At a time when so many agencies face critical IT modernization efforts, this legislation would move us backward in our attempts to break down agency silos and fully leverage the power of information technology.

I also want to register my concern with Section 23 of the bill, which would require that MNIT's centralized service rates for the upcoming FY20-21 biennium be completed by July 1st of this year. Our current timeline would have us delivering rates by September of this year for the biennium beginning on July 1st of 2019. This timeline was set with a multi-agency financial steering committee made up of agency CFOs and provides agencies the information needed for biennial budget development purposes. It also allows for time to research anticipated service changes for the next biennium and gather data to more accurately predict volumes. The abbreviated timeline laid out in Senate File 3764 would have us deliver rates ten weeks from now. This does not allow sufficient time to appropriately confer with agency partners and Chief Business Technology Officers and greatly limits the ability of our multi-agency financial steering committee to impact the rate setting process. We

would not have time to gather customer responses to new rate scenarios and make adjustments to calculations based on their input, as we have done in prior years.

We at Minnesota IT Services stand ready to work with you to improve state government IT and fully realize the potential for a unified state IT organization to improve the services state agencies provide to Minnesotans.

Sincerely,

A handwritten signature in blue ink that reads "Johanna P. Clyborne". The signature is written in a cursive style with a large initial 'J'.

Johanna Clyborne
Commissioner and State Chief Information Officer
Minnesota IT Services

Cc: Senator Mary Kiffmeyer, Senator Richard Cohen

April 23, 2018

The Honorable Julie Rosen
Chair, Senate Finance Committee
Minnesota Senate
3235 Minnesota Senate Building
St. Paul, MN 55155

The Honorable Richard Cohen
Ranking Minority Member, Senate Finance Committee
Minnesota Senate
2301 Minnesota Senate Building
St. Paul, MN 55155

Dear Senator Rosen and Senator Cohen:

I write in regard to Senate File 3141, the Omnibus Environment and Natural Resources Policy and Finance bill, which is before the Senate Finance Committee today.

On a positive note, I want to convey my thanks to committee chairs for their willingness to discuss issues relating to this bill. In addition, I appreciate that two small technical provisions from the Minnesota Pollution Control Agency's (MPCA) policy are included in the omnibus language.

Governor Dayton has said he will veto any bill that results in cuts to agency budgets. Senate File 3141 cuts the MPCA's general fund appropriation by \$700,000 in FY2019 and by \$1.4 million per biennium thereafter. It also contains new mandated spending of \$1 million in FY2019 and \$700,000 every fiscal year thereafter from the Environmental Fund without providing new resources to that Fund. These new requirements will push the Environmental Fund's bottom line perilously close to zero with resulting fiscal instability at the agency. MPCA's budget changes, along with others in this bill, are being made to support legislation that shift dollars to provide more compensation for lottery retailers, something the Minnesota Lottery testified against.

The following policy items are among the most problematic parts of SF 3141:

- **Volkswagen Settlement language in Section 97.** The court settlement allows states to use up to 15% on administrative costs. I have committed to keep administrative costs under 10%. Limiting our costs to 3% eliminates the flexibility we need on the front end to get the word out, help people apply for funds, process the applications, and follow-up afterwards. So this language will slow down the rate we get this money out the door. Section 97 has the unintended consequence of putting small businesses and school districts at a disadvantage, because we will not be able to provide the level of technical assistance they may require. Finally, Section 97 requires us to spend taxpayer money in order to process the VW penalty funds. In effect, this bill requires taxpayers to bear the brunt of "making right" the things that a polluter, in this case Volkswagen, did wrong.
- **Air quality standards and rulemaking requirements in Section 78.** This language was not introduced as a bill or vetted through the committee process, but was an amendment in committee last week. Under Section 78, the agency would be forced to take a step backward in setting air quality standards. That's because we would be forced to abandon our current process of long-term discussion and planning with permittees around the impact of business expansions and options for managing those expansions vis a vis air quality standards. Our current process is collaborative and preventive, whereas Section 78 sets up an "everyone for

themselves" process that allows for fewer options for prevention. As you know, preventing pollution is always cheaper than cleaning it up.

- **"Prove the negative" provisions in Section 78.** This language requires the agency to justify a new air quality standard (or, depending on interpretation, all standards) by documenting how federal law is inadequate to protect public health and the environment. Governor Dayton has rejected language similar to this before. Adding this extra administrative process hampers the state's ability to act in cases where the federal government has not acted on issues critical to the state. It is also a waste of taxpayer dollars.
- **Exemptions for lining sugar beet storage pits in Section 64.** Added as an amendment in committee last week, this language was not vetted through the committee process. It would exempt remote sedimentation ponds for sugar beets from having to be lined. Sugar beet waste is more than just beets, dirt, and water. Like any other organic thing, when sugar beets disintegrate in water, contamination is created. Our data show that runoff from decomposing sugar beets can be 50 to 100 times stronger than municipal sewage in terms of biological oxygen demand. This high-strength waste needs to be properly managed. Unlined sedimentation ponds could create a direct pathway to groundwater. This bill puts our groundwater resources at an unacceptable level of risk.
- **Wastewater effluent limitations for industrial permittees in Section 66.** Language very similar to this was passed by the Legislature last year but was later disapproved by an Administrative Law Judge. The agency was neutral on the 2017 language, which applied 'regulatory certainty' provisions to municipal facilities only. Section 66 expands on the 2017 language to include private, industrial facilities. The agency did not support including industrial facilities in 2017 and we still do not support their inclusion in 2018.

The above fiscal and policy issues are significant problems for the agency, and because of them I stand opposed to Senate File 3141.

Sincerely,

A handwritten signature in black ink that reads "John Linc Stine". The signature is written in a cursive, slightly slanted style.

John Linc Stine
Commissioner

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

The Honorable Jim Knoblach,
Chair Ways and Means Committee
453 State Office
Building St. Paul,
Minnesota 55155

April 23, 2018

Dear Chairs Nornes and Knoblach,

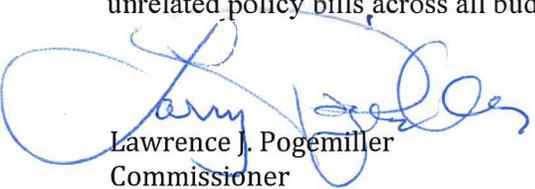
The Office of Higher Education (OHE) staff and I greatly appreciate the courtesy and positive working relationship you and your House staff continue to provide as you process postsecondary bills.

The House bill recommends, in alignment with the Governor, modest policy changes to improve the implementation of programs at OHE for teachers, borrowers, private institutions, and students. The bill also includes the creation of a special revenue account for the Spinal Cord and Traumatic Injury Research Grant program to ensure that all grant funds are used in their entirety on research for innovative treatments in the area of spinal cord and traumatic brain injury. This is greatly appreciated!

Unfortunately, the House bill as currently drafted, lacks the funding recommended by the Governor for Minnesota State for campus support and to help upgrade the Integrated Statewide Record System nor the funding to hold down tuition for University of Minnesota undergraduates.

A particular shortcoming of the current bill is the absence of matching funds for the Minnesota Reconnect program at four Minnesota State campuses. The Governor has recommended redirecting \$1.3M of unused funds from the expiring Occupational Scholarship program to supplement a \$748,000 Lumina grant using best practice research that will increase retention and completion of returning adults. The Minnesota State campuses are in the process of hiring staff and putting programmatic pieces in place for this fall to help as many as 500 adult students complete their postsecondary credentials over the next two years. Also disappointing is the lack of the Pell Grant fill-in which would have helped 568 students.

Finally, it is important to remind House members of the Governor's preference to separate budget and unrelated policy bills across all budget areas.



Lawrence J. Pogemiller
Commissioner
Office of Higher Education

cc: Representative Gene Pelowski, Representative Lyndon Carlson



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

The Honorable Julie Rosen, Chair
Finance Committee
95 University Avenue W, Room 3235
St. Paul, Minnesota 55155

April 23, 2018

Dear Chairs Fischbach and Rosen,

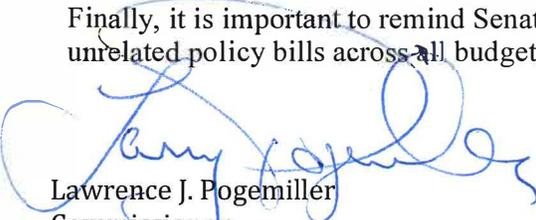
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Unfortunately, the Senate bill as currently drafted, lacks the funding recommended by the Governor for Minnesota State for campus support and to help upgrade the Integrated Statewide Record System nor the funding to hold down tuition for University of Minnesota undergraduates.

A particular shortcoming of the current bill is the absence of matching funds for the Minnesota Reconnect program at four Minnesota State campuses. The Governor has recommended redirecting \$1.3M of unused funds from the expiring Occupational Scholarship program to supplement a \$748,000 Lumina grant using best practice research that will increase retention and completion of returning adults. The Minnesota State campuses are in the process of hiring staff and putting programmatic pieces in place for this fall to help as many as 500 adult students complete their postsecondary credentials over the next two years. Also disappointing is the lack of the Pell Grant fill-in which would have helped 568 students.

Finally, it is important to remind Senate members of the Governor's preference to separate budget and unrelated policy bills across all budget areas.



Lawrence J. Pogemiller
Commissioner
Office of Higher Education

cc: Senator Richard Cohen, Senator Greg Clausen

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April 23, 2018

The Honorable Matt Dean
Minnesota House of Representatives
401 State Office Building
100 Rev. Dr. Martin Luther King Jr. Boulevard
Saint Paul, MN 55155

Dear Representative Dean,

I write to express the Commerce Department's opposition to provisions added to HF3138 by amendment related to Short-Term, Limited Duration (STLD) health plans.

Commerce is concerned that the differences between a STLD product and a health insurance product with comprehensive health insurance coverage offered in the individual and small group marketplaces may not be clear to consumers. STLD plans often do not include the benefits that protect consumers from exposure to excessive out-of-pocket health care costs which are otherwise included in a comprehensive health insurance plan.

For context, STLD plans exist in Minnesota's marketplace today for individuals when they are ending one, and are not yet eligible for another, comprehensive health insurance plan. These types of plans, which current Minnesota law allows to be sold for up to six months, offer very limited benefits sets and are meant to be purchased in emergency situations. STLD plans are not required to offer comprehensive insurance coverage and frequently exclude vital coverage categories like maternity and mental health benefits.

The provisions added to HF3138 no longer makes STLD plans "short-term," but rather makes these products a long-term purchase for up to 24 continuous months. The language also allows for medical underwriting and pre-existing condition exclusions for the first six months of each period of coverage. This will result in Minnesotans not being able to access needed health care when they get sick.

The Department also opposes this provision because it has the potential to significantly undermine the investments made in 2017 to stabilize Minnesota's individual market by creating a state-based reinsurance program and providing a one-time, 25 percent discount to individuals who do not receive assistance to pay their premiums. Because of limited benefits and coverages, as well as the ability to medically underwrite and exclude pre-existing conditions, it is predicted that STLD plans will attract only

The Honorable Matt Dean

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healthy individuals, thereby shrinking the individual market and increasing health insurance rates on Minnesota consumers purchasing comprehensive insurance.

Thank you for considering Commerce's concerns with HF3138. I hope this information is helpful to you and I urge you to remove the STLD language from the bill.

Sincerely,



Jessica Looman

Commissioner

cc: The Honorable Glenn Gruenhagen, Minnesota House of Representatives
The Honorable Tina Liebling, Minnesota House of Representatives
The Honorable Diane Loeffler, Minnesota House of Representatives



**Minnesota Department of Human Services
Elmer L. Andersen Building
Acting Commissioner Chuck Johnson
Post Office Box 64998
St. Paul, Minnesota 55164-0998**

April 24, 2018

The Honorable Jim Knoblach
Chair, Ways and Means Committee
453 State Office Building
100 Rev. Dr. Martin Luther King, Jr. Boulevard
St. Paul, MN 55155

Re: 2018 Health and Human Services Omnibus Bill

Dear Chair Knoblach:

As you review HF3138, the 2018 Health and Human Services budget bill, I want to take the opportunity to highlight our budget priorities, our concerns with the bill and also point out some issues in other bills before your committee. I truly appreciate your efforts so far this session on behalf of the over 1 million Minnesotans served by the Department of Human Services. I hope we can continue to work together to address some of the issues highlighted below.

Protecting seniors and vulnerable adults from abuse is one of the highest priorities for this legislative session. Governor Dayton included a robust package of proposals to do this in his budget. We stand ready to work with you and I am hopeful that the House will include and properly fund the critical items needed to ensure our seniors are safe, including: increasing staff for the Ombudsman for Long-Term Care to meet consumer needs; increasing capacity for the Minnesota Adult Abuse Reporting Center (MAARC) to create a true single entry point for reports of suspected maltreatment; investments in process improvements for notifying law enforcement; and providing grants to counties so they can also better respond to this crisis. It is also critical that any package include greater regulation and oversight of assisted living programs. Because it is such a high priority, the Governor has requested addressing this critical issue in a stand-alone bill instead of including it in an omnibus bill.

One of the Governor's top priorities for the 2018 session is to address the opioid crisis in our state. I am pleased that the Governor's proposal to increase timely access to substance use disorder treatment is in the House bill. This is a good step forward but does not go far enough. Opioid addiction is devastating families and communities across Minnesota. We need to make key investments, such as the grants proposed in the Governor's budget to help local health and social service agencies and law enforcement work together. We can fund this by imposing a stewardship fee on pharmaceutical companies, who can and should help offset the costs for prevention and treatment of opioid addiction. The one-time grants that the House includes in its bill are just a band-aid. I hope we can work together on more comprehensive strategies to address this crisis, and do so as stand-alone legislation outside of the budget negotiation process.

The Honorable Jim Knoblach
April 24, 2018

As you are aware, another of the Governor's main priorities this session is the establishment of a MinnesotaCare buy-in option. This measure would provide an affordable coverage option for approximately 100,000 Minnesotans who purchase coverage in the individual market. I know the Legislature is concerned about the individual market for health care and by 2020 reinsurance is scheduled to end. This proposal is a smart solution for Minnesotans. The Governor also proposed a repeal of the provider tax sunset. These proposals together help ensure the future financial stability of the health care system in Minnesota.

There are a number of provisions from the Governor's proposals you have included in your bill, and I would like to underscore their importance and thank you for their inclusion. Bringing forward the Governor's proposal to make program integrity improvements to the non-emergency medical transportation system will help to ensure that Minnesota's resources are used most efficiently to serve Medical Assistance enrollees. I also want to thank you for including the refinancing of the Consolidated Chemical Dependency Treatment Fund operations account that provides greater transparency, eliminates recurring excess balances in the special revenue account and ultimately generates savings for the General Fund. These proposals are clearly priorities for all of us and I appreciate your work to include them.

Over the past several years, together we have invested in School Linked Mental Health Grants. I appreciate your support of this successful program. I am pleased that there is some investment in the House bill for this and I am also supportive of the \$5 million included in the House Education Finance Omnibus Bill. This would allow us to serve about 7,500 more students who need services across Minnesota and is an important piece of the Governor's package for Safe and Secure Schools. The Governor's budget included additional staff at DHS that will be needed to successfully expand this program, which are not included in the House proposal. I want to be sure there are necessary resources in place to administer the additional grants.

I am pleased that portions of the Governor's proposal to improve child care assistance programs (CCAP) are also in the bill. These measures will provide greater access to affordable child care for working families in Minnesota and, in particular, address the needs of homeless families. However, I am disappointed that the bill lacks important health and safety changes for legal non-licensed providers, due process rights for providers, and also does not include funding to maintain CCAP provider payment rates based on the current market survey. Without these important provisions, the state is out of compliance with federal law and potentially subject to financial penalties. Minnesota is one of very few states that are not in compliance with federal child care requirements and I hope we can continue to work together to solve this problem that has been before us for the last three years.

The House has included the establishment of an electronic visit verification (EVV) system for personal care and home health care services in the state. This measure will enable providers to use a system selected by the state or an EVV system of their choice. EVV will improve the accuracy of billing for personal care and home health care services and ensure that the state is compliant with federal law. It also provides a General Fund savings by reducing billing errors and improving program integrity.

The Honorable Jim Knoblach
April 24, 2018

It is disappointing that the Governor's proposed rate increase for Personal Care Assistants (PCA) is not included in the bill. The workforce shortage is a serious issue and PCAs make it possible for people with disabilities to live in their homes, get to work and manage their daily living. This modest request will help maintain these needed services.

Another proposal you did not include from the Governor's package relates to the increased fees the federal government has applied to child support cases of families not receiving public assistance, from \$25 to \$35. There are two options for addressing this shortfall: You may increase the fee in statute or allocate the funding as we proposed. Ultimately, inaction by the Legislature results in a loss of funds to counties, not the state, because counties keep the nonfederal share of the fee.

Finally, I am troubled you have not included the Governor's proposal to properly place financial responsibility for the Supreme Court of Appeals Panel (SCAP) in the Minnesota Judicial Branch budget. The SCAP panels hear and decide reduction in custody petitions of individuals civilly committed in our Minnesota Sex Offender Program and those committed as Mentally Ill and Dangerous. This request is needed to avoid the conflict of interest wherein DHS provides the funding for the panel that we appear before as a party.

Below I highlight additional provisions in the House bill that are problematic for my agency and the people we serve and I ask that you consider removing them.

- **Reduction to the Systems Fund** - The legislation intends to repurpose \$14 million the department dedicated to Direct Care and Treatment to invest in needed technology improvements. These funds would be used to increase patient safety through technology and implement an Electronic Health Record, which is a federal requirement and also improves safety at our facilities. I see this as impinging on executive branch authority to manage programs, services and resources as best we can to meet the multiple pressures of administering services. It moves DHS backward in our efforts to improve safety at our direct care facilities.
- **Restrictions in Information Technology spending** - The House bill takes IT spending out of the control of the department and puts it under the control of the Legislative Advisory Commission. This unnecessary interference with executive branch spending decisions will reduce the ability for the department to address IT needs as they arise and delay implementation of needed projects and fixes.
- **Prescribed Pediatric Extended Care Center (PPECC) services** – This proposal requires Medical Assistance (MA) to cover PPECC services at a rate of \$500 per full day and \$250 per half day. These are centers where medically complex children can receive nursing services. I am opposed to this provision because there is no justification for the rates. Other states have similar facilities in their MA plans with much lower rates. For example, the rate for a similar service in Florida is less than \$200 per day. I hope to work with you to develop more reasonable rates for these services. We are also concerned that these services may serve to segregate children with medically complex conditions. We believe discussion of this approach is necessary.
- **MinnesotaCare Premium Reconciliation** – The House bill requires DHS to reconcile MinnesotaCare premiums for January 1, 2014 through December 31, 2017, by July 1, 2018, and

requires \$10,000 to be transferred from DHS Central Office to the premium security plan account for each day of noncompliance. DHS has exhausted efforts to reconcile MinnesotaCare premiums that were incorrectly billed from January 2014 through April 2016. Further efforts to reconcile premiums will only lead to confusion and stress for working Minnesota families. The department undertook extensive efforts to reconcile and recover the improperly calculated premiums before ultimately deciding to write off the amounts. The response team invested approximately 9,500 hours in looking for solutions but instead uncovered increasingly complex data issues. Reconciliation would require a meticulous review of an estimated 60,000 cases, requiring anywhere from 1.5 to 4 hours per record, with no guarantee that the necessary data is available to resolve any specific case. Continued investment will not lead to results, it will simply drain resources that are needed to address other priorities.

- **Two Percent Withhold for Coverage Verification** – This proposal requires DHS to withhold 2 percent of monthly capitation payments. Managed Care Organizations (MCOs) are eligible to receive the withheld amount upon receipt of an enrollment verification form from an individual. DHS would be required to stop capitation payments if a form is not returned. DHS opposed similar language last session. The MCO withhold cannot be implemented as written due to conflicts with Medicaid regulations. The termination from enrollment requirement is also problematic from a CMS standpoint. Federal Medicaid rules do not allow states to maintain separate eligibility rules on the basis of whether someone is served under fee-for-service or managed care. Therefore, DHS would not be permitted to terminate coverage on this basis.
- **Vendor to verify eligibility** – The House bill requires DHS to contract with a vendor to verify eligibility of all persons in MA, MinnesotaCare and SNAP. The vendor would use data matches to make a preliminary determination of eligibility, which DHS must act upon within 20 days. DHS must pay for the cost of administering the contract and pay the vendor a portion of any recovery. There is no mechanism in the bill to compensate a vendor. I have a number of concerns about this proposal. DHS uses a number of electronic systems and data matches to verify eligibility; it is not clear what a vendor could do that would enhance those efforts. Also, any work on a new IT project with this scope could impact the timeline of other IT priorities including planned upgrades to make several fixes for county workers, and improvements to the eligibility system's functionality.
- **Approval requirement for Preferred Drug List** – This proposal prohibits DHS from implementing a single preferred drug list (PDL) until it develops a study and gains legislative approval. This would prevent DHS from moving forward with the single PDL as planned, an initiative that has received widespread support from providers and consumer advocates and is only opposed by most Managed Care Organizations (MCOs) and pharmacy benefit managers. This would also potentially undo the current PDL approach for Hepatitis C, which would have a cost to the state, and remove a significant tool to control health plan pharmacy costs in the future. The single PDL is also expected to bring significant savings to the Medicaid program through increased pharmacy rebates. It is not clear what the purpose of this provision is, other than to stifle innovation in our health care programs.
- **Transfer of \$4.4 million from dedicated funds** – The House makes a one-time transfer of \$4.4 million from dedicated accounts that includes state, federal, and managed care plan revenues

The Honorable Jim Knoblach
April 24, 2018

and is used for, among other things, staff who serve 38,000 enrollees in the Minnesota Senior Health Options (MSHO), provide services needed to transition individuals from institutional settings within state-operated services to the community and to fund intensive residential treatment services. The transfer of these funds means fewer resources for these important activities.

Many of the concerns I have relate to the health care area. I am concerned that the above listed provisions will negatively impact our enrollees and providers and put in jeopardy the health care system we have all worked hard to build for Minnesotans. In particular, the House has considered a number of provisions, including the restrictions on the use of a preferred drug list that unnecessarily interfere with the Department's procurement process and stifle innovation in health care. These measures hinder the state's ability to obtain quality care for our clients and be a good steward of taxpayer dollars. In addition, there are many proposals in your bill that are not funded, most importantly the vulnerable adult protections provisions. I am looking forward to working with you to ensure that the fiscal impact of those proposals are properly tracked.

In addition to the Health and Human Services Finance Bill I am also reviewing other bills that are currently before the Ways and Means Committee.

Finally I want to highlight a number of provisions in the State Government Finance bill that I am opposed to. In particular, the reduction in agency appropriations related to the MNLARS funding is problematic and will impact our ability to accomplish our IT work. The bill also requires state agencies to dedicate at least 3.5 percent of their IT budget to the enhancement of cybersecurity. While maintaining cybersecurity is very important, requiring a specific level of dedicated funding regardless of need will restrict funds that could be used to further other IT needs and is essentially a cut to the department. The requirement to share data used in the development of a fiscal note, regardless of classification, with the Legislative Budget Office is problematic due to data privacy concerns and because the department is subject to numerous federal laws that prohibit the sharing of private data on individuals. This issue needs to be addressed. The transfer of oversight related to the Data Practices Act and Open Meeting Law from the Commissioner of Administration to the Office of Administrative Hearings will create a more adversarial process and result in increased costs to the department. Another provision that restricts how agencies can spend savings generated by vacant positions will interfere with the flexibility the executive branch has to operate within its budget. Finally, the requirement to include local governments when testing and approving IT projects will result in additional unnecessary costs and delays to IT projects.

Thank you for your consideration of these comments. I look forward to working with you now and through conference committee on these important issues. As always, please do not hesitate to contact me or my staff for additional information or assistance you may need in coming weeks.

The Honorable Jim Knoblach
April 24, 2018

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Johnson', with a long horizontal flourish extending to the right.

Charles E. Johnson
Acting Commissioner

c.c.: The Honorable Matt Dean
The Honorable Joe Schomacker
The Honorable Erin Murphy
The Honorable Tina Liebling
The Honorable Sarah Anderson



Minnesota Department of Human Services
Elmer L. Andersen Building
Acting Commissioner Chuck Johnson
Post Office Box 64998
St. Paul, Minnesota 55164-0998

April 23, 2018

The Honorable Julie Rosen
Chair, Finance Committee
Minnesota Senate Bldg., Room 3235
95 University Avenue W.
St. Paul, Minnesota 55155

Re: 2018 Health and Human Services Omnibus Bill

Dear Chair Rosen:

As you prepare to finalize the Senate position in each of the omnibus bills, I want to take this opportunity to write and highlight my priorities for human services and draw your attention to concerns I have in the bills before your committee. I truly appreciate your efforts over the last few months on behalf of the over 1 million Minnesotans we serve at the Department of Human Services and I hope we can find agreement on the most pressing needs this session.

Protecting seniors and vulnerable adults from abuse is one of the highest priorities for this legislative session. Governor Dayton included a robust package of proposals to do this in his budget. I am pleased that Senator Housley's bill was debated and approved by the Health and Human Services Finance and Policy Committee and is traveling as stand-alone legislation. We stand ready to work with you on this critical issue. I am hopeful that the Senate will properly fund the critical items needed to ensure our seniors are safe, including: increased staff for the Ombudsman for Long-Term Care to meet consumer needs; increased capacity for the Minnesota Adult Abuse Reporting Center (MAARC) to create a true single entry point for reports of suspected maltreatment; investments in process improvements for notifying law enforcement; and providing grants to local communities so they can also better respond to this crisis.

As you are aware, one of the Governor's main priorities this session is to address the opioid crisis in our state. Opioid addiction is devastating families and communities across Minnesota. We need to make key investments such as the grants proposed in the Governor's budget to help local health and social service agencies and law enforcement work together. We can fund this by implementing a stewardship fee on pharmaceutical companies, who can and should help offset the costs for prevention and treatment of opioid addiction. We need to work together to address this crisis outside of the supplemental budget process. The Governor has requested this important matter be addressed in a stand-alone bill.

The Honorable Julie Rosen
April 23, 2018

The MinnesotaCare Buy-In proposal is a sensible option to address increasing cost and reduced access to care for people in the individual market. This measure would provide an affordable coverage option for approximately 100,000 Minnesotans who purchase coverage in the individual market. I know the Legislature is concerned about the individual market for health care, and by 2020 reinsurance is scheduled to end. This proposal is a smart solution for Minnesotans. The Governor also proposed a repeal of the provider tax sunset. These proposals together help ensure the future financial stability of the health care system in Minnesota.

There are a number of provisions from the Governor's proposals you have included in your bill and I would like to underscore their importance and thank you for their inclusion. Bringing forward the Governor's proposal to make program integrity improvements to the non-emergency medical transportation system will help to ensure that Minnesota's resources are used most efficiently to serve Medical Assistance enrollees. I also want to thank you for investing in School Linked Mental Health Grants. Your support of this successful program will serve about 7,500 more students who need services across Minnesota. Finally, I am glad you incorporated the refinancing of the Consolidated Chemical Dependency Treatment Fund operations account that provides greater transparency, eliminates recurring excess balances in the special revenue account and ultimately generates savings for the General Fund. These proposals are clearly priorities for all of us and I appreciate your work to include them.

I am pleased that portions of the Governor's proposal to improve child care assistance programs (CCAP) are also in the bill. These measures will provide greater access to affordable child care for working families in Minnesota and in particular address the needs of homeless families. However, I am disappointed that the bill lacks important health and safety changes for legal non-licensed providers and due process rights for providers. Without these important provisions, the state is out of compliance with federal law and potentially subject to financial penalties. Minnesota is one of very few states that are still out of compliance with federal child care requirements and I hope we can continue to work together to solve this problem that has been before us for the last three years.

It is disappointing that the Governor's proposed rate increase for Personal Care Assistants (PCA) is not included in the bill. The workforce shortage is a serious issue and PCAs make it possible for people with disabilities to live in their homes, get to work and manage their daily living. This modest request will help maintain these needed services.

Another proposal from the Governor's package that is not included in the Senate bill relates to the increased fees the federal government has applied to child support cases of families not receiving public assistance, from \$25 to \$35. There are two options for addressing this shortfall: You may increase the fee in statute or allocate the funding as we proposed. Ultimately, inaction by the legislature results in a loss of funds to counties, not the state, because counties keep the nonfederal share of the fee.

Finally, I am troubled you have not included the Governor's proposal to properly place financial responsibility for the Supreme Court of Appeals Panel (SCAP) in the Minnesota Judicial Branch budget. The SCAP panels hear and decide reduction in custody petitions of individuals civilly committed in our Minnesota Sex Offender Program and those committed as Mentally Ill and Dangerous. This request is needed to avoid the conflict of interest wherein DHS provides the funding for the panel that we appear before as a party.

The Honorable Julie Rosen
April 23, 2018

The Senate bills include two provisions that will enhance community engagement and our ability to better serve targeted populations. While Minnesota has enjoyed top rankings in many national categories of services, we perform poorly when it comes to outcomes for American Indian and African American people. The proposals to extend the American Indian advisory councils another five years will help the department continue to work directly with the community and to provide culturally appropriate mental health, chemical dependency and child welfare services to our tribal partners. Similarly, African American children are removed from their homes at a rate that is more than three times that of their white counterparts. Your inclusion of the African American child welfare workgroup will help to formulate more informed policies and procedures relating to African American child welfare services and help to ensure African American families are provided with the services they need to care for their children in their own homes.

I appreciate that you included the elimination of the county child protection grant withhold requirement. We too recognize that in order for the counties to respond effectively to Minnesota's child protection needs they must have predictable funding levels in order to hire permanent staff to meet performance standards.

The Senate bill takes steps to dedicate resources to help stabilize the long-term care workforce and to support reliable and quality services for our citizens with disabilities. The department stands ready to work with you to help ensure that the Disability Waiver Rate System legislation meets federal requirements. We share the priority that funding be dedicated to improving the wages of the direct care workers. Finally, the 21st Century Cures Act requires electronic visit verification for personal care services by 2019. The steps the Senate bill is taking to bring Minnesota into federal compliance is commendable and I appreciate your efforts.

There are several proposals currently in your bill that I am concerned about and ask that you consider removing. First there is a provision addressing the community placement of clients with violent or assaultive behaviors. The department is responsible for helping to re-integrate people who have been treated in one of our facilities back into the community. There are times when those placements are court ordered and approved. Encumbering the department with this language could present legal challenges in the future when the department is unable to take the necessary steps for community integration of a person that is no longer appropriately served in one of our facilities.

Another proposal in your bill I am concerned about allows health care providers to access an enhanced payment rate for Early and Periodic Screening, Diagnostic and Treatment in some situations without performing all the required screenings that meet the recommendations by the American Academy of Pediatrics. The enhanced rate is designed to be an incentive for following best practices and the Senate proposal would diminish that incentive.

The legislation also intends to repurpose \$14 million the department dedicated to Direct Care and Treatment (DCT) to invest in needed technology improvements. These funds will be used to increase patient and staff safety through improved technology and to implement an Electronic Health Record system for DCT. I see this action as impinging on executive branch authority to manage programs, services and resources as best we can to meet the multiple pressures of administering services. It moves DHS backward in our efforts to improve safety at our direct care facilities.

The Honorable Julie Rosen
April 23, 2018

I invite additional conversation on two topics. The first is the provision that asks the department to draft legislation to create a new state agency and pulls functions from both the Department of Human Services and Health. There are some units within these areas that may, by federal law, remain with human services. I'd like to know from the Senate the intent of the new agency and for you to provide additional detail so my agency can be responsive.

Next, there are issues with your legislation related to the new legislative budget office. The requirement to share data used in the development of a fiscal note, regardless of classification, with the Legislative Budget Office is problematic due to data privacy concerns and because the department is subject to numerous federal laws that prohibit the sharing of private data on individuals. This issue must be addressed. Additionally, the process envisioned for the Legislative Budget Office to review 300 pilot fiscal notes is unclear. Two entities coordinating identical fiscal notes will create confusion and delays.

Thank you for your consideration of these comments. I look forward to working with you now and through conference committee on these important issues. As always, we at DHS stand ready to provide you any additional information or assistance you may need in the coming days and weeks.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Johnson', with a long horizontal stroke extending to the right.

Charles E. Johnson
Acting Commissioner

c.c. The Honorable Michelle Benson
The Honorable Jim Abeler
The Honorable Tony Lourey
The Honorable Jeff Hayden
The Honorable Mary Kiffmeyer



Protecting, Maintaining and Improving the Health of All Minnesotans

April 23, 2018

Senator Julie Rosen
Chair, Finance Committee
3235 Minnesota Senate Building
95 University Avenue W.
Saint Paul, MN 55155

Dear Senator Rosen,

I appreciate the work by Senator Benson and the entire HHS committee on the Senate's 2018 Supplemental Health and Human Services budget bill (SF 2505). The bill acknowledges the important role public health agencies play in tackling society's most challenging issues, including elder abuse and the opioid epidemic.

Prevention is cheaper than treatment and it is our best long-term strategy for turning the curve on health costs and improving Minnesotans' quality of life. I value the additional investments this bill makes in prevention and public health. However, as I expressed in my testimony to the Senate Health and Human Services Finance Committee, I am concerned that many of the Governor's supplemental budget proposals were excluded.

1. The Governor's supplemental budget increased safe drinking water fees by 28 cents per connection per month. This fee has not increased since 2005 and this small increase is essential for MDH to maintain our proactive efforts with public water suppliers to ensure that Minnesotans enjoy safe drinking water. The technical assistance that MDH provides to public water suppliers is especially valuable for smaller and rural systems that lack resources and technical capacity. Without this funding, MDH will have to reassess the services we provide to public water suppliers and consider going to a reactive, rather than a proactive model, waiting until a system is out of compliance with Safe Drinking Water standards before we step in. I urge the Senate to consider including this proposal in its supplemental spending bill.
2. The Governor's Budget included a realignment of medical cannabis program appropriations from the state government special revenue (SGSR) fund to spend fees paid by manufacturers and patients. This appropriation realignment ensures consistent funding for Minnesota's 24/7 patient registry database, expert regulatory staff for manufacturer

oversight, and staffing of a busy call center. This adjustment does not change current law or fees and has no General Fund impact or cost to Minnesota taxpayers. I encourage you to support Minnesota's Medical Cannabis program by allowing it to fully and adequately serve those Minnesotans who need it.

3. On the prevention of elder abuse, I appreciate the collaborative efforts by Senators Fischbach, Lourey and Housley to make immediate and meaningful changes in law this Session. Senate File 3437 takes us in the right direction. I look forward to continuing to work to achieve enactment of stand-alone legislation that incorporates additional ideas from the Office of the Legislative Auditor (OLA) evaluation and the consumer working group's report, which informed the Governor's budget proposal on this urgent challenge.
4. Governor Dayton's opioid abuse prevention proposals would annually invest about \$12 million in high-impact strategies to treat and prevent opioid abuse, especially in communities disproportionately impacted by opioid addiction. Governor Dayton's Opioid Stewardship Program would fund opioid abuse prevention and treatment strategies in every corner of Minnesota. The Stewardship Program would require that opioid manufacturers pay a stewardship fee to fund a comprehensive prevention, treatment, and recovery effort that would curb opioid abuse and save lives. Senator Rosen, you have individually shown great courage on this issue and I applaud you for including a similar proposal in your legislation. I urge you to send the opioid legislation as a stand-alone bill so it can be addressed outside of the supplemental budget negotiations.
5. MDH agrees that sustaining a statewide Tobacco Quitline is important. However, it was disappointing to see funding for a treatment service – even one as valuable as the Quitline – coming at the expense of almost \$300,000 in SFY 19, and even more money in the tails, of local counties' public health funding. The Statewide Health Improvement Partnership (SHIP) supports local schools, businesses, apartment owners/managers, farmers, community groups, senior organizations, hospitals, clinics, chambers of commerce, faith organizations, and many others in creating opportunities for active living, healthy eating, and tobacco-free living. SHIP supports smoke-free spaces, including public housing, among many other strategies to prevent the harmful effects and high health care costs of smoking. It is particularly important to maintain nicotine addiction prevention efforts in light of new data showing that e-cigarettes are attracting young people in greater numbers than ever before.
6. Lastly, I want to draw your attention to an urgent General Fund request included in the Governor's bonding bill -- \$2.37 million in one-time resources to replace outdated equipment in our public health laboratory. Expensive and essential items like a gamma spectrometer, gas proportional counter, liquid scintillation counter, gas chromatograph,

and triple quad mass spectrometer, are among the many items needed to ensure our Public Health Lab continues to provide timely and urgent testing of health threats including infectious disease agents like Ebola, bioterrorism agents, PFCs in water, and radiation.

Minnesota is overall a healthy state but faces some significant challenges in maintaining that status. Governor Dayton's budget addressed these challenges in a strategic and effective way. His proposed investments benefit the health of Minnesotans today and into the future. I thank you and Chair Knoblach for your hard work this session and I pledge to continue working with you on a budget that works to make common-sense health care reforms and smart public health investments to protect and enhance the quality of life for all Minnesotans.

Sincerely,

A handwritten signature in black ink, appearing to read "Jan Malcolm". The signature is fluid and cursive, with a long horizontal stroke at the end.

Jan Malcolm
Commissioner
Minnesota Department of Health

Cc: Governor Mark Dayton
Senator Michelle Benson, Chair, Health and Human Services Finance Committee
Senator Richard Cohen, Minority Lead, Finance Committee
Senator Tony Lourey, Minority Lead, Health and Human Services Finance Committee



**Minnesota Department of Human Services
Elmer L. Andersen Building
Acting Commissioner Chuck Johnson
Post Office Box 64998
St. Paul, Minnesota 55164-0998**

April 24, 2018

The Honorable Jim Knoblach
Chair, Ways and Means Committee
453 State Office Building
100 Rev. Dr. Martin Luther King, Jr. Boulevard
St. Paul, MN 55155

Re: 2018 Health and Human Services Omnibus Bill

Dear Chair Knoblach:

As you review HF3138, the 2018 Health and Human Services budget bill, I want to take the opportunity to highlight our budget priorities, our concerns with the bill and also point out some issues in other bills before your committee. I truly appreciate your efforts so far this session on behalf of the over 1 million Minnesotans served by the Department of Human Services. I hope we can continue to work together to address some of the issues highlighted below.

Protecting seniors and vulnerable adults from abuse is one of the highest priorities for this legislative session. Governor Dayton included a robust package of proposals to do this in his budget. We stand ready to work with you and I am hopeful that the House will include and properly fund the critical items needed to ensure our seniors are safe, including: increasing staff for the Ombudsman for Long-Term Care to meet consumer needs; increasing capacity for the Minnesota Adult Abuse Reporting Center (MAARC) to create a true single entry point for reports of suspected maltreatment; investments in process improvements for notifying law enforcement; and providing grants to counties so they can also better respond to this crisis. It is also critical that any package include greater regulation and oversight of assisted living programs. Because it is such a high priority, the Governor has requested addressing this critical issue in a stand-alone bill instead of including it in an omnibus bill.

One of the Governor's top priorities for the 2018 session is to address the opioid crisis in our state. I am pleased that the Governor's proposal to increase timely access to substance use disorder treatment is in the House bill. This is a good step forward but does not go far enough. Opioid addiction is devastating families and communities across Minnesota. We need to make key investments, such as the grants proposed in the Governor's budget to help local health and social service agencies and law enforcement work together. We can fund this by imposing a stewardship fee on pharmaceutical companies, who can and should help offset the costs for prevention and treatment of opioid addiction. The one-time grants that the House includes in its bill are just a band-aid. I hope we can work together on more comprehensive strategies to address this crisis, and do so as stand-alone legislation outside of the budget negotiation process.

The Honorable Jim Knoblach
April 24, 2018

As you are aware, another of the Governor's main priorities this session is the establishment of a MinnesotaCare buy-in option. This measure would provide an affordable coverage option for approximately 100,000 Minnesotans who purchase coverage in the individual market. I know the Legislature is concerned about the individual market for health care and by 2020 reinsurance is scheduled to end. This proposal is a smart solution for Minnesotans. The Governor also proposed a repeal of the provider tax sunset. These proposals together help ensure the future financial stability of the health care system in Minnesota.

There are a number of provisions from the Governor's proposals you have included in your bill, and I would like to underscore their importance and thank you for their inclusion. Bringing forward the Governor's proposal to make program integrity improvements to the non-emergency medical transportation system will help to ensure that Minnesota's resources are used most efficiently to serve Medical Assistance enrollees. I also want to thank you for including the refinancing of the Consolidated Chemical Dependency Treatment Fund operations account that provides greater transparency, eliminates recurring excess balances in the special revenue account and ultimately generates savings for the General Fund. These proposals are clearly priorities for all of us and I appreciate your work to include them.

Over the past several years, together we have invested in School Linked Mental Health Grants. I appreciate your support of this successful program. I am pleased that there is some investment in the House bill for this and I am also supportive of the \$5 million included in the House Education Finance Omnibus Bill. This would allow us to serve about 7,500 more students who need services across Minnesota and is an important piece of the Governor's package for Safe and Secure Schools. The Governor's budget included additional staff at DHS that will be needed to successfully expand this program, which are not included in the House proposal. I want to be sure there are necessary resources in place to administer the additional grants.

I am pleased that portions of the Governor's proposal to improve child care assistance programs (CCAP) are also in the bill. These measures will provide greater access to affordable child care for working families in Minnesota and, in particular, address the needs of homeless families. However, I am disappointed that the bill lacks important health and safety changes for legal non-licensed providers, due process rights for providers, and also does not include funding to maintain CCAP provider payment rates based on the current market survey. Without these important provisions, the state is out of compliance with federal law and potentially subject to financial penalties. Minnesota is one of very few states that are not in compliance with federal child care requirements and I hope we can continue to work together to solve this problem that has been before us for the last three years.

The House has included the establishment of an electronic visit verification (EVV) system for personal care and home health care services in the state. This measure will enable providers to use a system selected by the state or an EVV system of their choice. EVV will improve the accuracy of billing for personal care and home health care services and ensure that the state is compliant with federal law. It also provides a General Fund savings by reducing billing errors and improving program integrity.

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It is disappointing that the Governor's proposed rate increase for Personal Care Assistants (PCA) is not included in the bill. The workforce shortage is a serious issue and PCAs make it possible for people with disabilities to live in their homes, get to work and manage their daily living. This modest request will help maintain these needed services.

Another proposal you did not include from the Governor's package relates to the increased fees the federal government has applied to child support cases of families not receiving public assistance, from \$25 to \$35. There are two options for addressing this shortfall: You may increase the fee in statute or allocate the funding as we proposed. Ultimately, inaction by the Legislature results in a loss of funds to counties, not the state, because counties keep the nonfederal share of the fee.

Finally, I am troubled you have not included the Governor's proposal to properly place financial responsibility for the Supreme Court of Appeals Panel (SCAP) in the Minnesota Judicial Branch budget. The SCAP panels hear and decide reduction in custody petitions of individuals civilly committed in our Minnesota Sex Offender Program and those committed as Mentally Ill and Dangerous. This request is needed to avoid the conflict of interest wherein DHS provides the funding for the panel that we appear before as a party.

Below I highlight additional provisions in the House bill that are problematic for my agency and the people we serve and I ask that you consider removing them.

- **Reduction to the Systems Fund** - The legislation intends to repurpose \$14 million the department dedicated to Direct Care and Treatment to invest in needed technology improvements. These funds would be used to increase patient safety through technology and implement an Electronic Health Record, which is a federal requirement and also improves safety at our facilities. I see this as impinging on executive branch authority to manage programs, services and resources as best we can to meet the multiple pressures of administering services. It moves DHS backward in our efforts to improve safety at our direct care facilities.
- **Restrictions in Information Technology spending** - The House bill takes IT spending out of the control of the department and puts it under the control of the Legislative Advisory Commission. This unnecessary interference with executive branch spending decisions will reduce the ability for the department to address IT needs as they arise and delay implementation of needed projects and fixes.
- **Prescribed Pediatric Extended Care Center (PPECC) services** – This proposal requires Medical Assistance (MA) to cover PPECC services at a rate of \$500 per full day and \$250 per half day. These are centers where medically complex children can receive nursing services. I am opposed to this provision because there is no justification for the rates. Other states have similar facilities in their MA plans with much lower rates. For example, the rate for a similar service in Florida is less than \$200 per day. I hope to work with you to develop more reasonable rates for these services. We are also concerned that these services may serve to segregate children with medically complex conditions. We believe discussion of this approach is necessary.
- **MinnesotaCare Premium Reconciliation** – The House bill requires DHS to reconcile MinnesotaCare premiums for January 1, 2014 through December 31, 2017, by July 1, 2018, and

requires \$10,000 to be transferred from DHS Central Office to the premium security plan account for each day of noncompliance. DHS has exhausted efforts to reconcile MinnesotaCare premiums that were incorrectly billed from January 2014 through April 2016. Further efforts to reconcile premiums will only lead to confusion and stress for working Minnesota families. The department undertook extensive efforts to reconcile and recover the improperly calculated premiums before ultimately deciding to write off the amounts. The response team invested approximately 9,500 hours in looking for solutions but instead uncovered increasingly complex data issues. Reconciliation would require a meticulous review of an estimated 60,000 cases, requiring anywhere from 1.5 to 4 hours per record, with no guarantee that the necessary data is available to resolve any specific case. Continued investment will not lead to results, it will simply drain resources that are needed to address other priorities.

- **Two Percent Withhold for Coverage Verification** – This proposal requires DHS to withhold 2 percent of monthly capitation payments. Managed Care Organizations (MCOs) are eligible to receive the withheld amount upon receipt of an enrollment verification form from an individual. DHS would be required to stop capitation payments if a form is not returned. DHS opposed similar language last session. The MCO withhold cannot be implemented as written due to conflicts with Medicaid regulations. The termination from enrollment requirement is also problematic from a CMS standpoint. Federal Medicaid rules do not allow states to maintain separate eligibility rules on the basis of whether someone is served under fee-for-service or managed care. Therefore, DHS would not be permitted to terminate coverage on this basis.
- **Vendor to verify eligibility** – The House bill requires DHS to contract with a vendor to verify eligibility of all persons in MA, MinnesotaCare and SNAP. The vendor would use data matches to make a preliminary determination of eligibility, which DHS must act upon within 20 days. DHS must pay for the cost of administering the contract and pay the vendor a portion of any recovery. There is no mechanism in the bill to compensate a vendor. I have a number of concerns about this proposal. DHS uses a number of electronic systems and data matches to verify eligibility; it is not clear what a vendor could do that would enhance those efforts. Also, any work on a new IT project with this scope could impact the timeline of other IT priorities including planned upgrades to make several fixes for county workers, and improvements to the eligibility system's functionality.
- **Approval requirement for Preferred Drug List** – This proposal prohibits DHS from implementing a single preferred drug list (PDL) until it develops a study and gains legislative approval. This would prevent DHS from moving forward with the single PDL as planned, an initiative that has received widespread support from providers and consumer advocates and is only opposed by most Managed Care Organizations (MCOs) and pharmacy benefit managers. This would also potentially undo the current PDL approach for Hepatitis C, which would have a cost to the state, and remove a significant tool to control health plan pharmacy costs in the future. The single PDL is also expected to bring significant savings to the Medicaid program through increased pharmacy rebates. It is not clear what the purpose of this provision is, other than to stifle innovation in our health care programs.
- **Transfer of \$4.4 million from dedicated funds** – The House makes a one-time transfer of \$4.4 million from dedicated accounts that includes state, federal, and managed care plan revenues

The Honorable Jim Knoblach
April 24, 2018

and is used for, among other things, staff who serve 38,000 enrollees in the Minnesota Senior Health Options (MSHO), provide services needed to transition individuals from institutional settings within state-operated services to the community and to fund intensive residential treatment services. The transfer of these funds means fewer resources for these important activities.

Many of the concerns I have relate to the health care area. I am concerned that the above listed provisions will negatively impact our enrollees and providers and put in jeopardy the health care system we have all worked hard to build for Minnesotans. In particular, the House has considered a number of provisions, including the restrictions on the use of a preferred drug list that unnecessarily interfere with the Department's procurement process and stifle innovation in health care. These measures hinder the state's ability to obtain quality care for our clients and be a good steward of taxpayer dollars. In addition, there are many proposals in your bill that are not funded, most importantly the vulnerable adult protections provisions. I am looking forward to working with you to ensure that the fiscal impact of those proposals are properly tracked.

In addition to the Health and Human Services Finance Bill I am also reviewing other bills that are currently before the Ways and Means Committee.

Finally I want to highlight a number of provisions in the State Government Finance bill that I am opposed to. In particular, the reduction in agency appropriations related to the MNLARS funding is problematic and will impact our ability to accomplish our IT work. The bill also requires state agencies to dedicate at least 3.5 percent of their IT budget to the enhancement of cybersecurity. While maintaining cybersecurity is very important, requiring a specific level of dedicated funding regardless of need will restrict funds that could be used to further other IT needs and is essentially a cut to the department. The requirement to share data used in the development of a fiscal note, regardless of classification, with the Legislative Budget Office is problematic due to data privacy concerns and because the department is subject to numerous federal laws that prohibit the sharing of private data on individuals. This issue needs to be addressed. The transfer of oversight related to the Data Practices Act and Open Meeting Law from the Commissioner of Administration to the Office of Administrative Hearings will create a more adversarial process and result in increased costs to the department. Another provision that restricts how agencies can spend savings generated by vacant positions will interfere with the flexibility the executive branch has to operate within its budget. Finally, the requirement to include local governments when testing and approving IT projects will result in additional unnecessary costs and delays to IT projects.

Thank you for your consideration of these comments. I look forward to working with you now and through conference committee on these important issues. As always, please do not hesitate to contact me or my staff for additional information or assistance you may need in coming weeks.

The Honorable Jim Knoblach
April 24, 2018

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Johnson', with a long horizontal flourish extending to the right.

Charles E. Johnson
Acting Commissioner

c.c.: The Honorable Matt Dean
The Honorable Joe Schomacker
The Honorable Erin Murphy
The Honorable Tina Liebling
The Honorable Sarah Anderson

April 23, 2018

Senator Julie Rosen
Chair, Finance Committee
Room 3235, Minnesota Senate Bldg.
95 University Avenue W.,
St. Paul, MN 55155

Re: S.F. 3764, State Government Finance Omnibus Bill

Dear Senator Rosen,

The Department of Labor and Industry (DLI) understands the important and critical issue of affordable housing in Minnesota. However, we believe the language that would require additional legislative review of rulemaking for residential building code changes that result in \$1,000 or more in Section 15 will not address this issue and should be removed.

We are concerned with the inclusion of this language in the Senate State Government Finance omnibus bill because it will impose several burdens upon DLI and other agencies, with little to no benefit to the public or the cause of affordable housing for the following reasons:

- 1. Close to all significant cost changes to the residential building code in the past years were due to changes by the Legislature and Governor.** DLI has had a minimal impact on changes to the state residential building code that have resulted in increased home costs. Nearly all costly changes in the past eight years to the residential building code were passed on by both the Legislature in 2009 (radon mitigation, durability law and window fall protection) and Governor Pawlenty (energy code). This bill language would not address this from happening again in the future.
- 2. The real barriers to more affordable housing are the costs of land, labor, material and municipal land-use regulations.** This was made clear in the bi-partisan Housing Summit and also the Governor's Affordable Housing Task Force this year. Addressing these areas are critical to affordable housing and something DLI has no control over when adopting the residential building code.
- 3. Establishing a \$1,000 threshold is subjective and the result could be contentious.** This language would require DLI to determine if a proposed rule would cost \$1,000 or more. It can be expected this determination will be challenged and the Department will need to hire 1.5 FTE's in order to verify costs of proposed rules to the extent required by this legislation. This will result in the department spending an additional \$187,200 per fiscal year in staffing resources, which DLI believes is an unnecessary cost to taxpayers.

- 4. It will be difficult to meet the statutory obligation to adopt new model codes within two years.** DLI already spends months studying changes in the new code with industry stakeholders. It takes many more months to prepare rulemaking records and justifications for 6 model codes simultaneously. If DLI determines the proposed rule meets the \$1,000 threshold, the entire rulemaking effort will have to be oriented to coincide with the end of the legislative session. If it is not, there is risk of the rule automatically becoming void after 180 days. Then the process would have to begin over again, resulting in wasted staff time and unnecessary costs to the agency.

DLI shares the concern of ensuring housing is affordable to all Minnesotans. However, innovative and effective ways to address this issue is the approach that should be taken versus unnecessary, costly and ineffective methods that impact an already collaborative approach to implementing the residential building code.

If you have questions, please contact me, Assistant Commissioner Scott McLellan (scott.mclellan@state.mn.us) or Assistant Commissioner Heather McGannon (heather.mcgannon@state.mn.us).

Sincerely,

A handwritten signature in black ink, appearing to read "KB" followed by a stylized, cursive signature.

Ken Peterson
Commissioner
Minnesota Department of Labor and Industry

cc: Senator Richard Cohen, Ranking Minority Member of Finance Committee
Senator Mary Kiffmeyer, Chair of State Government Finance and Policy and Elections Policy Committee

April 24, 2018

The Honorable Scott Newman
Chair, Senate Transportation Finance and Policy
3105 Minnesota Senate Building
95 University Ave. West
St. Paul, Minnesota 55155-1206

Dear Chair Newman:

I would like to offer my perspective on Senate File 3806, the Senate omnibus transportation bill.

Thank you for including several MnDOT policy provisions in the bill. The changes for airport zoning provision is one we have been working on for a few years and are happy to see it finally making some progress.

Unfortunately, I am disappointed no funding is provided for replacing two state planes, for tribal relations training or for MnDOT facilities. As you know both of our planes are quite old (35 and 23 years) and are more frequently out of service for repairs.

There are two earmarks for studies in the bill, for \$1.45 million each. Both are an inefficient use of trunk highway funds. The department opposes earmarks for specific highway projects, even for studies. The study on I-94 is unnecessary – we already know a lot about what is going on in this corridor, such as issues with traffic volumes, pavement condition, safety problems and bridge clearances. We constantly hear how the department needs to be efficient, but every year we are required to do new studies that provide little to no value but cost millions of dollars.

The study for an interchange at I-35 and County Road 9 in Rice County is primarily to help solve issues on the local road network and does not have a trunk highway benefit. Studies of this nature are paid for with local funds and it is not appropriate to use trunk highway funds for this purpose.

The department has safety concerns about the requirement for motorists to yield to on-track train equipment. Vehicles on the roadway expect a crossing with lights and gates to activate when there is a need to stop at rail road tracks. The configurations in this bill may not do that. This is a serious safety hazard for trunk highway rail grade crossings. At a minimum, language should be added to the bill requiring the operator to exercise due care when using equipment known not to activate railroad warning devices.

Another significant safety concern is the provision in the bill that allows county boards to modify speed limits without an engineering and traffic investigation. Keeping vehicle speeds uniform and speed limits consistent results in the safest and most efficient operation of the system. Posted speed limits keep traffic flowing smoothly only when the majority of drivers find the speed limits reasonable. Consistent

speed limits throughout the state provide motorists with an idea of a reasonable speed to drive in unfamiliar locations.

Engineering judgment must be applied in a consistent way to meet the expectations of all roadway users. The traffic investigator must use knowledge of nationally accepted principles combined with experience to assign the most reasonable and safe speed. When a change to a speed limit is proposed, the data collected and the recommendation are reviewed by other engineers that must agree with the change before the speed change is implemented.

The department is evaluating a provision in the bill that allows trucks carrying sugar beets to discharge liquid on roadways. This may be a safety and maintenance concern. The liquid can leave a syrupy substance on roadways which gets on cars, and there have been complaints from people about this occurring.

Despite the additional funding provided by the legislature last year, we continue to fall behind in our efforts to adequately preserve the existing trunk highway system, let alone adequately address the need for investments in new infrastructure.

Passing an amendment to constitutionally dedicate general fund revenues is a welcome signal that the legislature understands the need for additional, dedicated funding. However, the amendment does not include additional funding for transit which is a regrettable oversight.

Constitutionally dedicating funds takes flexibility away from future legislatures to address revenue shortfalls or additional policy challenges. If the constitutional change were in effect today, we would be looking at about a \$189M general fund deficit, instead of a surplus.

Finally, the resources provided by the amendment are inadequate – all additional revenue from a constitutional amendment would still be less than half what is needed for the trunk highway system.

Thank you for the opportunity to provide comments on Senate File 3806, the Senate omnibus transportation bill. Department staff are ready to work with you to address these concerns.

Sincerely,



Charles A. Zelle
Commissioner



April 25, 2018

The Honorable Tim O'Driscoll
Chair, House Government Operations and
Elections Policy Committee
Minnesota House of Representatives
559 State Office Building
St. Paul, MN 55155

The Honorable Michael V. Nelson
DFL Lead, House Government Operations and
Elections Policy Committee
Minnesota House of Representatives
351 State Office Building
St. Paul, MN 55155

Dear Members of the House Government Operations and Elections Policy Committee:

As the commissioners of agencies whose core work involves helping Minnesotans and Minnesota businesses understand the laws passed by the Legislature and how those laws will be implemented, we write in opposition to new administrative rulemaking provisions in sections 2, 3, 5 and 7 in Article 3 of House File 4016, of the Omnibus State Government and Finance Bill.

These provisions are from HF 3445 / SF 3113. This bill seeks to establish a new process, much like rulemaking, for the formation and maintenance of a broadly-defined group of "policies." We appreciate the changes to language offered since introduction of this bill, especially the removal of letters and contracts from the definition of "policy." However, we remain opposed to these provisions because they create new costs that are not funded, will serve to slow down agency work, create redundancy, and have serious unintended consequences. Our concerns:

- **The definition of policy is overly broad.** By defining policy to include "written policy, guideline, bulletin, manual, or similar document providing an interpretation, clarification or explanation of a statute or rule to provide guidance for agency regulatory functions including but not limited to permits or enforcement actions," we are concerned this bill casts a wider net than my be expected.
- **The bill sets an unfunded mandate for five-year public notice/comment/review of all 'policy.'** The bill voids any 'policy' that does not go through a review every 5 years. This review must include a public notice and public comment period – both of which will incur administrative costs. The immediacy of the effective date on existing policies would create a significant administrative burden.
- **The bill creates redundancy by requiring the re-vetting of federally approved language.** The language creates redundancy in cases where agencies adopt federal policy in whole, because those policies already have been reviewed and vetted at the federal level.
- **The bill would prevent agencies from providing compliance guidance to regulated industries.** Agencies provide policy information to communicate with regulated entities, to send notification regarding new state and federal laws and regulations, and articulate procedures for complying with statutory requirements. The bill's restrictions on providing this guidance may create delays and inefficiencies and cause market disruptions harming industry and consumers.
- **This bill expands the authority of legislative committees into the powers of the executive branch by requiring a delay of policy implementation during legislation session.** An example of unintended consequences is the impact of this provision on Minnesota college students who need financial aid. The bill would hamper the Office of Higher Education's ability to make timely

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Page 2

updates to policies and procedures by which they administer financial aid programs. As a result, this bill could impact post-secondary students' financial ability to attend and complete college.

- **Not all agencies can maintain a public policy docket without necessary funding.** Requiring the collection and posting of every agency policy, guideline, bulletin, manual or similar document providing a clarification or explanation of a statute or rule to provide guidance for permits or enforcement actions can present staffing issues. Many agencies have full-time staff already devoted to rulemaking. This bill necessitates similar staffing for policies.
- **Removing the governor's waiver authority removes the only available recourse for an agency that believes an administrative law judge has misconstrued the law.** Even if the language were to provide authority to appeal an ALJ's decision to the Minnesota Court of Appeals, an appeal process will take more time and money than the current waiver option.

For these reasons we do not support these provisions, especially since bill advocates have not clearly articulated the specific problem(s) they seek to address. This bill contains several new administrative 'hoops' without providing commensurate value.

Sincerely,



Thomas Landwehr, Commissioner
MN Department of Natural Resources



John Linc Stine, Commissioner
MN Pollution Control Agency



Charles Zelle, Commissioner
MN Department of Transportation



Matt Massman, Commissioner
MN Department of Administration



Larry Pogemiller, Commissioner
MN Office of Higher Education



Ramona Dohman, Commissioner
MN Department of Public Safety



Jessica Looman, Commissioner
MN Department of Commerce



Brenda Cassellius, Commissioner
MN Department of Education



Protecting, Maintaining and Improving the Health of All Minnesotans

April 25, 2018

Representative Jim Knoblach
Chair, Ways & Means Committee
453 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
Saint Paul, MN 55155

Dear Representative Knoblach,

I appreciate the work by Representative Dean and the entire HHS committee on the House's 2018 Supplemental Health and Human Services budget bill (HF 3138). The bill acknowledges the important role public health agencies play in tackling society's most challenging issues, including elder abuse and the opioid epidemic.

Prevention is cheaper than treatment and it is our best long-term strategy for turning the curve on health costs and improving Minnesotans' quality of life. I value the additional investments this bill makes in prevention and public health. However, as I expressed in my testimony to the House Health and Human Services Finance Committee, I am concerned that many of the Governor's supplemental budget proposals were excluded.

1. The Governor's supplemental budget increased safe drinking water fees by 28 cents per connection per month. This fee has not increased since 2005 and this small increase is essential for MDH to maintain our proactive efforts with public water suppliers to ensure that Minnesotans enjoy safe drinking water. The technical assistance that MDH provides to public water suppliers is especially valuable for smaller and rural systems that lack resources and technical capacity. Without this funding, MDH will have to reassess the services we provide to public water suppliers and consider going to a reactive, rather than a proactive model, waiting until a system is out of compliance with Safe Drinking Water standards before we step in. I urge the House to consider including this proposal in its supplemental spending bill.
2. The Governor's Budget included a realignment of medical cannabis program appropriations from the state government special revenue (SGSR) fund to spend fees paid by manufacturers and patients. This appropriation realignment ensures consistent funding for Minnesota's 24/7 patient registry database, expert regulatory staff for manufacturer

oversight, and staffing of a busy call center. This adjustment does not change current law or fees and has no General Fund impact or cost to Minnesota taxpayers. I encourage you to support Minnesota's Medical Cannabis program by allowing it to fully and adequately serve those Minnesotans who need it.

3. On the prevention of elder abuse, I appreciate the efforts by Representatives Kiel and Zerwas to take steps to address this issue. Unfortunately, while their efforts do pull in several of the recommendations made by the Office of the Legislative Auditor, the bill does not recognize the simple fact that there is strong, bipartisan support for immediate actions to address the concerns brought forward by vulnerable adults and their families. It lacks the commonsense electronic monitoring or "granny cam" protections that both the industry and the Senate have already agreed are needed, and it lacks any real promise of action to stand up for elderly and vulnerable adults in assisted living settings or dementia care units. I look forward to continuing to work with the House on this critically important issue.
4. Governor Dayton's opioid abuse prevention proposals would annually invest about \$12 million in high-impact strategies to treat and prevent opioid abuse, especially in communities disproportionately impacted by opioid addiction. Governor Dayton's Opioid Stewardship Program would fund opioid abuse prevention and treatment strategies in every corner of Minnesota. The Stewardship Program would require that opioid manufacturers pay a stewardship fee to fund a comprehensive prevention, treatment, and recovery effort that would curb opioid abuse and save lives. I encourage you to consider including this important funding stream as you consider Representative Baker's H.F. 1440.
5. Lastly, I want to draw your attention to an urgent General Fund request included in the Governor's bonding bill -- \$2.37 million in one-time resources to replace outdated equipment in our public health laboratory. Expensive and essential items like a gamma spectrometer, gas proportional counter, liquid scintillation counter, gas chromatograph, and triple quad mass spectrometer, are among the many items needed to ensure our Public Health Lab continues to provide timely and urgent testing of health threats including infectious disease agents like Ebola, bioterrorism agents, PFCs in water, and radiation.

Minnesota is overall a healthy state but faces some significant challenges in maintaining that status. Governor Dayton's budget addressed these challenges in a strategic and effective way. His proposed investments benefit the health of Minnesotans today and into the future. I thank you and Chair Rosen for your hard work this session and I pledge to continue working with you on a budget that works to make common-sense health care reforms and smart public health investments to protect and enhance the quality of life for all Minnesotans.

Sincerely,

A handwritten signature in black ink, appearing to read "Jan Malcolm". The signature is fluid and cursive, with a long horizontal stroke at the end.

Jan Malcolm

Commissioner

Minnesota Department of Health

Cc: Governor Mark Dayton

Representative Matt Dean, Chair, Health and Human Services Finance Committee

Representative Lyndon Carlson, Minority Lead, Ways & Means Committee

Representative Erin Murphy, Minority Lead, Health and Human Services Finance Committee



April 25, 2018

Representative Jim Knobloch, Chair
House Ways and Means Committee
583 State Office Building
Saint Paul, MN 55155

RE: H.F. 4016 Sexual Harassment Office

Dear Chair Knobloch:

On April 18, I provided testimony to the House State Government Finance Committee on Minnesota Management and Budget's (MMB) serious concerns regarding H.F. 4016, the House omnibus state government supplemental budget bill. Specifically regarding the portion of the bill dealing with the creation of an office to investigate allegations of harassment, I am writing to relay my concerns in more detail.

Governor Dayton's Proposal

Last year, Governor Dayton requested that MMB review the sexual harassment prevention policies and procedures of the executive branch. He also asked that MMB provide recommendations on how to improve our efforts and encourage a more inclusive state workforce. In January 2018, MMB released the Sexual Harassment Prevention Policy and Procedures Report (the "Report"). The Report included ten recommendations that, if implemented, would enhance our efforts to prevent sexual harassment and assist in supporting a culture of respect and inclusion. MMB is currently working to implement several recommendations in the Report. Governor Dayton included a \$6.3 million funding request in his supplemental budget in order to fully implement the remaining recommendations. Specifically, funding is required for the following recommendations listed in the Report:

1. Create an independent office to provide an additional avenue for reporting, investigations and resources related to harassment complaints, and to provide oversight of all harassment investigations across the enterprise
2. Expand harassment prevention training
3. Recruit and retain diverse leadership
4. Administer an all-employee climate survey
5. Expand avenues to report harassment
6. Establish an audit procedure of harassment policies, procedures, and outcomes across all agencies

Specifically for the creation of an independent office, Governor Dayton included a request for \$2,591,000 in his supplemental budget for 2019. The office would provide additional support and oversight to current agency-based human resources staff and affirmative action officers in their duties to process and investigate harassment complaints. We expect that adding a new office would result in efficiencies, but we fully intend to maintain agency human resources (HR) and affirmative action offices as important front-line resources for our workforce.

Approach of H.F. 4016

Article 2, Section 48 of H.F. 4016 establishes an office to receive and investigate complaints not only of harassment and discrimination, but also any other form of misconduct. Article 1, Section 7 provides \$2,591,000 to fund the office, in addition to a portion of our funding request for expanded training, an employee survey, the study of a reporting hotline, and to establish an audit process. While we would gladly welcome additional resources to support our efforts to prevent harassment in the workplace, the language in the bill that establishes new office would have the opposite effect by creating even greater barriers to preventing sexual harassment and we do not support the provisions as written.

Instead of promoting the goals of inclusiveness and respect in our state workforce, the bill language would cut agency human resource and affirmative action offices and deny basic and critical support services to our state workforce. This is done by the bill in two ways:

1. H.F. 4016 expands the duties of the independent office beyond what is in MMB's Report recommendation and the Governor's funding request by requiring the office to handle complaints of any type of misconduct – in addition to harassment. Under this language, the office would provide intake and investigations of nearly all types of employee conduct that can result in disciplinary action. It was never our intention that this office conduct investigations of misconduct other than harassment and discrimination, nor did the Governor's budget request ask for funds sufficient to staff the office to expand its scope in this manner. This scope expansion would entail a huge amount of work for the new office without sufficient funding to actually or effectively accomplish the work.
2. Second, and more alarming, the language requires that any agency-based responsibility that "conflicts with or duplicates" work done by the new centralized office be transferred to the centralized office. Every HR and affirmative action office in all state agencies have responsibilities in the area of receiving and appropriately responding to concerns regarding harassment and discrimination. It is vital for employees to have resources in this area within their own agency, to ensure they have someone knowledgeable and capable at the agency level with whom they feel comfortable. Indeed, as the employer, agencies have an obligation to provide resources to their employees in the area of harassment prevention. To require the transfer of all of those duties to a single office would not only produce a logistically impossible situation for the provision of HR services to our employees, but it also would reduce effective and necessary agency-specific management of HR functions. In effect, H.F. 4016 would significantly cut agency HR and affirmative action resources and transfer these responsibilities to a small office that is not funded to a capacity to handle the workload. The bill would diminish

the preventative and enforcement mechanisms that are a critical front-line of harassment prevention in our state agencies.

The core purpose of the Governor's request to create a new, independent office was to provide our employees with an additional option to report harassment. This critical initiative should not be at the expense of other important programs. The Governor's request was made so that agencies could maintain their own HR and affirmative action staff to provide services individualized to each agency and available readily. It was not the intent of MMB nor the Governor – nor is it recommended in research performed and outreach conducted by MMB and other human resources experts – to consolidate all of these duties in one, small and consequently underfunded office.

MMB already possesses sufficient statutory authority to create the independent office from Minn. Stat. § 43A.04, subd. 1(c). Accordingly, there is no need for a statute addressing this issue; there is only a need for funding. Pursuant to the statutory duties of MMB under chapter 43A, should an independent office be created, we will carefully monitor the implementation and where cost savings are found, we will report them as well as eliminate services within agencies if they become unnecessary.

I am also concerned that this bill requires the new office to determine disciplinary outcomes for employees who are found to engage in improper conduct. Disciplinary action should be the responsibility of the employing agency, not this office. Further, the bill details that the director of the office will be an unclassified position. This designation could make the office unnecessarily political. The Governor's proposal recommends a non-partisan director that would serve in the classified service, and not subject to political removal. In a separate letter, we outline our additional concerns with how funding for sexual harassment prevention is accomplished in this bill.

MMB is available to meet and discuss how to amend the language to ensure that our state workforce is provided the human resources services it requires while enhancing our efforts to prevent harassment. Please do not hesitate to let me know if you have any questions regarding this or any other matter.

Sincerely,



Myron Frans
Commissioner

cc: Representative Sarah Anderson
Representative Leon Lillie
Representative Lyndon Carlson



April 25, 2018

Senator Julie Rosen, Chair
Senate Finance Committee
3235 Minnesota Senate Building
Saint Paul, MN 55155

RE: S.F. 3656 Senate Omnibus Supplemental Budget Bill

Dear Chair Rosen:

Thank you for the opportunity to express our concerns with the Senate Omnibus State Government portion of the omnibus supplemental budget bill as well as an additional amendment added to S.F. 3656 on April 24.

The Governor has been clear with legislative leaders on the considerations of how we can finish the legislative session in a productive way. In his letter from April 9, he requested that we use what limited time and resources we have to focus on the areas that we all agree on.

Governor Dayton was also clear that he would not entertain cuts to the operating budgets of agencies, boards or commissions. This is not a biennial budget year and the Governor does not see the need to revisit agency budgets at this point. As you know, it is these agencies, boards, and commissions that are required to deliver the services you have mandated in state statute.

Additionally, the Governor reiterated his request that budget bills focus on budget matters and treat policy decisions as separate issues. As we have seen in recent legislative sessions, it is not a productive nor transparent process to link important areas of critical state needs to unrelated provisions that can cause disagreement.

I am sending you a detailed list of concerns with the changes to the Legislative Budget Office statute in a separate letter. Please reference that letter as those concerns are not repeated here.

Senate File 3764 (Kiffmeyer) Omnibus Senate State Government Bill

The bill makes significant changes to the way that we bargain with the bargaining units that represent our state employees, and the way that the executive and legislative branches share responsibility for state collective bargaining agreements. These changes reflect a basic misunderstanding of chapter 179A, the Minnesota Public Employment Labor Relations Act (PELRA) and the requirements we have worked with for decades. Further, the current process has worked well in the most recent contract negotiations in 2014, 2016, and 2018.

In drafting the bill language, there has been no collaboration or input allowed from key stakeholders nor Minnesota Management and Budget, the very agency given statutory authority to negotiate on behalf of the state. Our concerns with these provisions are as follows:

- PELRA requires public employers and unions to meet and negotiate on the terms and conditions of employment. Among the most important terms and conditions of employment is compensation. Compensation includes not just wages, however; it also includes benefits like insurance benefits. The bill requires Minnesota Management and Budget to bifurcate the process for bargaining compensation. Under the language, MMB must submit to the Legislative Coordinating Commission any proposed changes to the employee insurance program 45 days prior to submitting a tentative agreement reached with our employee bargaining units achieved through the collective bargaining process. This bifurcation of negotiations is unworkable. Bargaining of benefits goes hand-in-hand with the bargaining of wages. The two are intertwined since both are components of compensation. By nature of the bargaining process, there can be no agreement on wages until there is an agreement on insurance.

Members have justified this language by asserting that MMB has not provided sufficient information to the Legislature prior to the Legislature's consideration of employee contracts. Let me be very clear on this point: MMB has and will continue to provide as accurate, comprehensive, and up-to-date information as possible to members of the Legislature. We have provided detailed information on the most recent round of contracts numerous times and will continue to do so.

- The bill attempts to inject additional politics into the process of employee contract approval by creating a new statutory definition of "ratification." This is unnecessary. Current law is clear. The Executive Branch negotiates collective bargaining agreements with the bargaining units. The contracts are not submitted to the LCC/SER until the Governor has indicated his agreement with the terms of the contracts. The Legislature may then accept or reject the contracts. The Legislature's vote to approve the contracts completes the ratification process. Current law requires this final action to be taken by the Legislative Branch. Requiring additional action by the Executive Branch—given its role in contract negotiation and approval before the contracts are submitted to the Legislature—is redundant. The only clear purpose for adopting this bill would be to facilitate legislative efforts to play politics at the expense of state employees by tying controversial policy provisions to the state employee contracts.

The bill also contains additional reporting requirements for federal funds. The proposed reporting is duplicative of current law. M.S. chapter 16A already requires the same information to be provided to legislators in the biennial budget document, or with a federal funds submission to the Legislative Advisory Commission. However, the bill language would require the same information in a different format and for different fiscal years. We are concerned that this duplication will only create confusion and not improve information.

Finally, not only are the contents of the bill problematic, but what has been omitted is equally concerning. The state government portion of the bill does not include critical funding for a proposal by the administration to expand our efforts to prevent sexual harassment in the Executive Branch.

We are committed to creating a respectful and safe work environment for all Executive Branch employees as well as the individuals they serve. One act of harassment is one too many. As agencies strive to be model employers, and recruit and retain the most qualified candidates to deliver public services, we must prioritize our work to prevent sexual harassment in the workplace. The Governor has proposed a detailed and comprehensive plan which includes training, the creation of an independent office for reporting complaints, new reporting requirements, and specific audit processes for policies, procedures and outcomes of complaints.

Please find attached the Administration's detailed budget proposal to address this critical need. The citizens of the state deserve to know their government is addressing this important issue among its public workforce.

Senate File 3656 (Rosen) amendment (SS3656ART)

This amendment makes several changes to MMB's sections of statute. We have three concerns with the amendment. First, section 3 requires MMB to submit a budget close report by September 30 of each odd-numbered year. We cannot provide an accurate report in that time frame. The earliest we could report is October 15.

Second, sections 5 and 9 'clean up' existing tobacco bond statute. Attached to this letter is MMB's preferred language.

Finally, section 6 makes changes to the LAC review of agency Odyssey Fund transfers. We oppose this change. This statutory change was introduced for the first time as the Finance committee finished its work at the end of the day on April 24, 2018. Current law was implemented after several months of review and compromise by the administration. We do not see a need for change, nor a need for a distinction based on the value of the transfer. More and more, the business of state government relies on modern, secure IT infrastructure. The Governor's requests for cybersecurity and IT infrastructure have gone unfunded. This language further ties agencies hands in meeting critical IT infrastructure needs.

Thank you for your consideration of these concerns. I am happy to further discuss them with you.

Sincerely,



Myron Frans
Commissioner

cc: Senator Mary Kiffmeyer
Senator Richard Cohen
Senator Jim Carlson



April 25, 2018

Representative Jim Knoblach, Chair
House Ways and Means Committee
453 State Office Building
Saint Paul, MN 55155

Senator Julie Rosen, Chair
Senate Finance Committee
3235 Minnesota Senate Building
Saint Paul, MN 55155

RE: Legislative Budget Office

Dear Representative Knoblach and Senator Rosen:

Please allow me the opportunity to express concerns Minnesota Management and Budget has with the proposals amending the Legislative Budget Office statutory provisions. Our overarching goal is to ensure that the people of Minnesota and their elected officials continue to be well-served by the non-partisan budget professionals that work on their behalf. Minnesota Management and Budget staff met with the original bill authors, and we provided public testimony. While there are some differences between the omnibus bills in the House and the Senate, there are similarities as well.

Leadership Agreement

Each bill advances the implementation dates of the new Legislative Budget Office. These changes are contrary to the agreement that was reached during the 2017 legislative session. We understand the legislature's need to prepare for the transition and hire necessary legislative budget office staff, but the statutory language is clear and the Governor was clear that the office could begin its work on January 8, 2019.

Additionally, when the leaders agreed on the creation of this office and the transfer of fiscal note responsibilities from one branch of government to another, they agreed that agency budgets would remain whole. Every future Governor, regardless of political party, deserves to have a fully functional budget office. Governor Dayton agreed to fund a legislative budget office in addition to, and not at the expense of, the current budget office at MMB.

The Governor has made it clear that reductions to MMB's budget are unacceptable. The non-partisan budget team at Minnesota Management and Budget does a remarkable amount of work with limited resources. As you know, they prepare both the Governor's operating and capital budget proposal, track the impact that legislative action has on the state budget, work with agencies to set up appropriation accounts in the state accounting system, ensure that spending is consistent with legislative intent, maintain the computer systems that support the development and tracking of

budgets, complete legislatively mandated reports, monitor agency spending, and produce the budget and economic forecasts. This is a substantial amount of work for a small staff complement and requires more than 40 hours per week from staff for much of the year. The oversight of the fiscal note process represents a small portion of their work, and any reduction to the budget division will curtail their ability to produce the products and outcomes the legislature and public have come to expect.

Finally, the Governor agreed to the transfer of fiscal notes only. The House bill transfers the Results First program from MMB to the new office. We are opposed to this change. In the two years that MMB has managed Results First, Minnesota has become one of the top three states for evidence-based policy decision-making. The analysis and reporting done by this team is year round work, which would suffer if only attended to between legislative sessions. The challenge of finding work for Legislative Budget Office staff between sessions is valid—we raised this concern last session. We suggest you look internally to legislative responsibilities to augment the workload of the office—evaluating fiscal notes and summarizing legislative actions, supporting legislative research functions or assisting with audits and reports conducted by the Office of the Legislative Auditor.

Operational Control

Both the House and Senate language directs MMB to turn over operational control of the fiscal note system to the new office. Without additional clarity from the authors, MMB defines operational control as hosting and maintaining the systems as a whole, which includes system access and security; system tables updates prior to the start of the legislative session for legislative members, fiscal analysts, budget officers and agency fiscal note coordinators; creation and maintenance of manuals; user training; agency assistance; system fixes and enhancements; and all costs associated with maintaining the system. It will take us approximately 6 months to transfer operational control to the Legislative Budget Office and the legislature should plan accordingly.

Data Privacy and Data Disclosure

Two important principles, maintaining the privacy of nonpublic data and ensuring access to public data are critical to ensuring confidence in fiscal notes, regardless of who is responsible. Everyone - the executive branch, the legislative branch and the public- all have high expectations for openness and transparency in the work of public institutions. We trust the legislature wants to maintain the high standards that have been set for the fiscal note process. However, the current language in both bills does not achieve this, and in fact, takes a step backwards. The fiscal note process will become less transparent with a legislative budget office, and the public and constituencies will lose access to the work and analysis that goes into creating each fiscal note. In addition, there is a risk that data protections for certain nonpublic data will not be maintained.

The Office of the Legislative Auditor has been held up as an example of how the new Legislative Budget Office should be structured and should operate. We believe that the same policies and principles that the Auditor adheres to in regards to public and nonpublic information should be applied to the Legislative Budget Office.

We appreciate the authors' earlier efforts to address our data protection concerns. However, as other agencies review the language, more concerns have been raised. We have provided the bill authors with amendments that will address these concerns to ensure the new office can do its work transparently while also safeguarding nonpublic data.

Transition Year

The Senate bill establishes a transition year, during which MMB would continue its current responsibilities and the LBO would also complete some fiscal notes on a trial basis. We believe having two separate offices from two separate branches of government performing the same work is a recipe for disaster—it will only create confusion and will be unworkable. The legislature wanted the fiscal note work to be transferred from the executive branch. Minnesota Management and Budget testified in opposition with several legitimate concerns. The legislative position prevailed. We believe that the legislative branch should proceed with the transition on the timeline as originally agreed.

I am happy to meet with you again to discuss these concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Myron Frans".

Myron Frans
Commissioner

cc: Representative Sarah Anderson
Senator Mary Kiffmeyer
Representative Bob Vogel
Representative Leon Lillie
Senator Jim Carlson
Representative Lyndon Carlson

April 25, 2018

Chair Jim Knoblach
House Ways and Means
453 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
Saint Paul, Minnesota 55155

Dear Chair Knoblach:

As HF 4016 moves to the Ways and Means committee, I write to express deep concerns about the bill and its impact on Minnesota taxpayers.

This bill, as drafted, reduces the Department of Revenue's general fund appropriation, negotiated and enacted last year, by \$3.895 million. Additionally, there are reductions to other agencies' budgets that will indirectly affect the Department of Revenue. The reductions to the department's budget, and to other agency budgets, will negatively affect our ability to maintain the current level of services we provide to Minnesotans.

HF 4016 represents a three percent cut to current general funds appropriated to the department. The department cannot absorb the appropriation reduction, and meet the requirements of the bill regarding maintenance of public services. Section 14 specifies that agencies prioritize reductions to central administration and general operations, and must not be made to programs or services provided directly to the public. However, the department provides comprehensive services to Minnesotans and reductions in any part of the department's operations will negatively impact customer service. The reduction in funds equates to a reduction of 47 employees who serve Minnesotans every day, which would negatively impact our ability to administer the state tax system.

During consideration of this bill last week in the State Government Finance Committee, the Department of Revenue was asked about the use of appropriations for FY18-19 of \$15.509 million when labor costs increases were projected at \$5.765 million. All of these funds were part of a larger request made last year to ensure that we can continue to support our customers' additional demands and maintain timely services. The appropriated funds, although not as much as requested, support department operations and services by ensuring that we can maintain our staffing levels with appropriate wage increases, increased lease rates, expanded customer outreach and guidance, resources to ensure more timely and efficient audits, and an expanded effort to fight the growing problem of identity theft related refund fraud.

In his April 9 letter to Speaker Daudt and Majority Leader Gazelka, Governor Dayton said he will not consider cuts to the operating budgets of state agencies, which were negotiated and enacted last year.

Hiring Limitations Will Negatively Affect Our Services

The provision preventing Revenue from redeploying funds to meet our customer's ever-changing, current needs hinders agency management and will negatively impact Minnesotans. The department must have an ability to effectively manage customer service for all of our customers who include individuals, large and small businesses, our local government partners, and many more. To do this, we must consistently and effectively manage the changes that result from new technology and innovation at the department and across a variety of industries

that file and pay taxes in Minnesota. Shifts, for instance, from paper filing to electronic filing, reduce the need for some skills at the agency, but increase the need for others.

Incidence Report Changes

We are concerned with the language to add federal taxes to the Incidence Study. Federal tax incidence is not under the jurisdiction of Minnesota lawmakers and its inclusion in the report could confuse the policy conversation. This is the case because some federal taxes are not on the same tax base as Minnesota taxes. For example, the definition of income for federal tax would need to include the employer share of social security taxes – which is not included in the definition of income in past studies on Minnesota taxes. This makes it difficult to understand the effect of combining federal tax results, and distorts the effect of state and local tax results. We recommend retaining the current format of the Incidence Study, which gives the legislature information about taxes over which it has jurisdiction.

Pipeline Valuation Report

We previously shared with this committee that a report of this scope – on the timeline specified in the bill – will take additional resources. We produced a similar report approximately 10 years ago, with the help of an outside expert, and it cost about \$100,000. Today, we estimate \$120,000 of additional resources to complete this work. We would like to work with you on the specifications of the report to ensure that it provides the information that can get us to the best results.

Moving Forward

The department is eager to serve Minnesota taxpayers as efficiently and effectively as possible. To do so, we need your help to secure the appropriate level of financial resources. We welcome any opportunity to discuss how we can best do that on behalf of Minnesota.

Sincerely,



Cynthia Bauerly
Commissioner

CC: Representative Lyndon Carlson, Sr.
DFL Lead, House Ways and Means
283 State Office Building

Representative Sarah Anderson
Chair, House State Government Finance
583 State Office Building

Representative Sheldon Johnson
DFL Lead, House State Government Finance
259 State Office Building

April 26, 2018

The Honorable Jim Knoblach
Chair, House Ways and Means Committee
453 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155

The Honorable Lyndon Carlson, Sr.
DFL Lead, House Ways and Means Committee
283 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155

Dear Representative Knoblach and Representative Carlson:

Thank you for the opportunity to provide comments on House File 3502, the Omnibus Environment and Natural Resources policy and finance bill.

We appreciate the many important conversations we have had throughout this session about environment and natural resources issues. This bill contains several provisions that improve the important work of locally-led conservation. Specifically:

- **Improvements to the Clean Water Legacy Act (Chapter 114D) and local water management programs (Chapter 103B) [HF3908]**
This language supports local action and increases the pace of progress for clean water while continuing to assure accountability for the state's investment in local conservation work. It better aligns data, analysis, planning, and implementation to achieve coordinated watershed management.
- **Accelerating Drainage System Acquisition of Buffer Strips and Alternative Practices [HF3836]**
Provisions included in this bill, based on some of the consensus recommendations of the stakeholder Drainage Work Group, provides Drainage Authorities and landowners with efficiencies and flexibility to install buffers as part of public drainage system work.
- **Transfer of duties of the Ramsey Conservation District [HF3819]**
This language ensures that the citizens of Ramsey County experience no disruption in conservation services with the discontinuation of the District and transition of programs to the County.

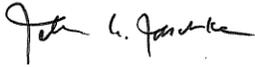
While we appreciate the inclusion of these important provisions, we have concerns with the following aspects of the Omnibus bill:

- **In-Lieu Fee Wetland Mitigation Program**
While we appreciate the ongoing legislative support for the establishment of an-lieu fee wetland mitigation program as part of the state's broader wetland program, without additional appropriations it will not be possible for staff to accelerate work to complete the planning framework and other requirements needed to secure federal approval.
- **Operational Adjustment**
The bill does not include the Governor's Supplemental Budget recommendations to cover GO bond-

ineligible costs related to BWSR's bonding projects, unanticipated rent increases, and one-time retirement payouts.

Thank you for the legislative work leading up to this bill and the inclusion of provisions that will give our local government partners more opportunities to accomplish targeted conservation work in Minnesota. We look forward to working together in the remaining weeks of this session.

Sincerely,

A handwritten signature in black ink, appearing to read "John C. Jaschke". The signature is fluid and cursive, with the first name "John" being the most prominent.

John Jaschke
Executive Director
Board of Water and Soil Resources

cc: Rep. Dan Fabian, Chair, House Environment and Natural Resources Policy and Finance Committee

April 26, 2018

The Honorable Jim Knoblach
Chair, Ways and Means Committee
453 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, Minnesota 55155

Dear Representative Knoblach:

On behalf of the Minnesota Department of Employment and Economic Development (DEED), I am writing to provide feedback on the House Job Growth and Energy Affordability Committee supplemental omnibus bill. I appreciate the challenge of crafting a supplemental budget bill, particularly within the targets that were given. The House bill, however, makes deep cuts to DEED programs and if approved would severely limit investments in our workforce, businesses, and communities, particularly in Greater Minnesota.

Governor Dayton proposed a supplemental budget that focuses on better government for the people of Minnesota, all while protecting Minnesota's current and future economy. It is my hope that we can work together to pass a supplemental budget that reflects those priorities. With that, below you will find an overview of areas in the House omnibus bill that DEED either supports or has concerns with.

Border-to-Border Broadband

I thank the House Job Growth and Energy Affordability Committee for their support of \$15 million in FY19 for the Border-to-Border Broadband Development grant program. While I am appreciative that the bill included funding for broadband, I am concerned that the \$15 million proposed will not keep pace with the urgent needs identified in communities across the state.

As you know, Governor Dayton's budget recommended \$30 million in FY19 for the program, which would expand broadband access to approximately 11,000 households, businesses and community institutions. The recommendation in the House bill would only expand broadband access to about 5,500 households, businesses and community institutions. I encourage you to increase funding for the Border-to-Border Broadband Development grant program to meet the Governor's level and to ensure that Minnesota families and businesses are able to compete.

Cuts to the Minnesota Investment Fund and Job Creation Fund

It is important that Minnesota has a fully funded complement of economic development tools to support job creation and business expansion throughout our state. Minnesota's incentive programs, like the Minnesota Investment Fund (MIF) and Job Creation Fund (JCF) are modest finance programs relative to programs available in other states, yet they remain critical components for economic development competitiveness and business decisions to expand or relocate, especially in Greater Minnesota.

The bill cuts MIF by \$5 million for FY19 and earmarks a further \$3.5 million in FY19, leaving only \$4M on the bottom line to support business expansion and relocation activities in the state. Since 2011, MIF has provided funds to more than 102 businesses helping them add a projected 9,000 quality jobs throughout the state and leverage more than \$1.55 billion dollars in private investment. Recent MIF investments include: Artic Cat and Digi-Key in Thief River Falls, Cirrus

Industries in Duluth, Ice Castle Fish Houses in Grand Rapids, Prime Pork in Windom, Viracon, in Owatonna, Advanced Extrusion in Rogers, Land O'Lakes in Arden Hills, and Polaris Industries in Plymouth, to name a few.

The bill also cuts JCF by \$7 million for FY19, reducing the program to \$1.5M for FY19 and reducing the base to \$5 million in FY21. Do to anticipated demand, this cut to JCF will essentially end the program in early FY19. The JCF has provided funds to more than 84 projects statewide since 2014 which includes 43 in the Twin Cities and 41 in Greater MN. JCF investments have created and retained more than 5,000 jobs and leveraged \$1.03 billion in total private investment. The JCF is currently fully subscribed for FY18 with multiple awards being made this week and two others likely in May.

Recent JCF awards include: Blattner Energy in Avon, Dunbow Textile in St. Cloud, North Star Mutual Insurance in Swedzinski, Anderson-Crane Company in Litchfield, Capital Safety in Red Wing, Midwest Dry Cast in Luverne, Harmony Enterprises in Harmony, Sportech in Elk River, and Valmont Industries in Farmington, to name a few.

With a budget surplus, these critical resources should not be cut, because Minnesota will be left with very few dollars to support business expansion and relocation in our state and our competitiveness will suffer.

Minnesota Investment Fund Language for a Paper Mill

The Governor's budget recommended one-time language to be added to the FY 2019 MIF appropriation. This language provided for an investment of \$2 million of the existing MIF appropriation for a paper mill in Duluth to assist with upgrades to its facility and to retain almost 200 employees. I encourage you to increase the dollar amount appropriated to this project from the FY19 MIF appropriation, as well as restoring proposed cuts to the MIF program.

Prairie Island Net Zero Project

The bill establishes the Prairie Island Net Zero Project at line 37.21, initially funded at \$20 million in FY18 and then funded at \$5 million per year for four additional years. Funding for this project amounts to \$40 million and the bill language contains little guidance about the types of research, development and implementation of renewable energy projects that the project is meant to include. This is critically important considering that DEED does not typically work in this area thus additional language in the bill further describing the legislative intent of the project would be helpful in ensuring that the project meets expectations. Lastly, this project does not include any administrative costs to fund the monitoring and oversight of taxpayer resources that DEED will be required to provide. I encourage you to include additional guidance and administrative costs for this project in the bill.

Technical Issues

There are a number of areas in the bill where we have identified technical issues that I urge you to resolve before passing this bill:

- All direct appropriations except for broadband are drafted to come from the "Business and Community Development" program. The direct appropriations should be revised to come from the proper budget program area to ensure good administration and budget tracking. For instance, the workforce training programs should be from the "Workforce Development" budget program and the grants to Advocating Change Together and Centers for Independent Living should come from the "Vocational Rehabilitation" budget program.

- The appropriation at line 5.11 should go to the Pollution Control Agency (MPCA). The MPCA is listed on line 5.35 because they have expertise in water quality regulation and permits. This area is outside the scope of DEED's expertise.
- The appropriation at line 14.10 for Florence Township is not consistent with the purpose of the Minnesota investment fund under Minnesota Statutes, section 116J.8731 which may make this grant difficult to administer as required by statute.

Investments in Three Minnesota Organizations

The Governor's budget also recommended funding for the following organizations: Family Partnership - \$1.4 million; Family Tree Clinic - \$900,000; and Tubman Center - \$383,000. This funding would allow these organizations to upgrade, expand and renovate their facilities so they can provide better serves to Minnesotans. I encourage you to include this language in the bill.

Policy Provisions

Finally, I want to reiterate Governor Dayton's direction in his April 9th letter to legislative leaders regarding the inclusion of policy provisions in budget bills. Policy bills should travel separately so they can be discussed on their own merits and passed as stand-alone bills. With respect to this bill, this includes the name change for the Minnesota Investment Fund, policy changes in the use of local government loan repayment funds, the satellite pilot program in the border to border broadband program and policy changes to the dislocated worker rapid response activity related to the Electrolux plant closure.

I know that the committee has challenging work ahead and DEED is committed to working with you to develop a budget that will strengthen Minnesota's economy. Thank you in advance for your consideration of this feedback. Please do not hesitate to contact directly me or Darielle Dannen (darielle.dannen@state.mn.us) with any questions.

Regards,



Shawntera Hardy
Commissioner

CC: Representative Tim Mahoney
Representative Pat Garofalo

April 26, 2018

Representative Jim Knoblach
Chair, Ways and Means Committee
453 State Office Building
St. Paul, MN 55155

Re: H.F. 4016, State Government Finance Omnibus Bill

Dear Representative Knoblach,

The Department of Labor and Industry (DLI) understands the important and critical issue of affordable housing in Minnesota. However, we believe the language in Article 3, Section 4 that would require additional legislative review of rulemaking for residential building code changes that result in cost increases of \$1,000 or more will not address this issue and should be removed.

We are concerned with the inclusion of this language in the House State Government Finance omnibus bill because it will impose several burdens upon DLI and other agencies, with little to no benefit to the public or the cause of affordable housing. DLI opposes this language for the following reasons:

- 1. Close to all significant cost changes to the residential building code in the past years were due to changes by the Legislature and Governor.** DLI has had a minimal impact on changes to the state residential building code that have resulted in increased home costs. Nearly all costly changes in the past eight years to the residential building code were passed on by both the Legislature in 2009 (radon mitigation, durability law and window fall protection) and Governor Pawlenty (energy code). This bill language would not keep this from happening in the future again.
- 2. The real barriers to more affordable housing are the costs of land, labor, material and municipal land-use regulations.** This was made clear in the bipartisan Housing Summit and also the Governor's Affordable Housing Task Force this year. Addressing these areas are critical to affordable housing, and something DLI has no control over when adopting the residential building code.
- 3. Establishing a \$1,000 threshold is subjective and the result could be contentious.** This language would require DLI to determine if a proposed rule would cost \$1,000 or more. It can be expected this determination will be challenged and the Department will need to hire 1.5 FTE's in order to verify costs of proposed rules to the extent required by this legislation. This will result in the department spending an additional \$187,200 per fiscal year in staffing resources, which DLI believes is an unnecessary cost to taxpayers.
- 4. It will be difficult to meet the statutory obligation to adopt new model codes within two years.** The department already spends months studying changes in the new code with industry

stakeholders. It takes many more months to prepare Rulemaking records and justifications for six model codes simultaneously. If DLI determines the proposed rule meets the \$1,000 threshold, the entire rulemaking effort will have to be oriented to coincide with the end of the legislative session. If it is not, there is risk of the rule automatically becoming void after 180 days. Then the process would have to begin over again, resulting in wasted staff time and unnecessary costs to the agency.

DLI shares the concern of ensuring housing is affordable to all Minnesotans. However, determining innovative and effective ways to address this issue is the approach that should be taken versus unnecessary, costly and ineffective methods that impact an already collaborative approach to implementing the residential building code.

DLI is also opposed to language in Article 2, Section 16 that prohibits the Attorney General from contracting for legal services on a contingent fee basis. This change impacts our ability to assert the state's subrogation rights against third parties in workers' compensation claims. In fiscal year 2017, DLI's special compensation fund (SCF) recovered \$182,600 in subrogation claims, recoveries that are critical to keeping the SCF's balance and helping reduce the burden on payers of SCF assessments.

Thank you for your time and consideration. If you have questions, please contact me, Assistant Commissioner Scott McLellan (scott.mclellan@state.mn.us) or Assistant Commissioner Heather McGannon (heather.mcannon@state.mn.us)

Sincerely,

A handwritten signature in black ink, appearing to read 'KB' followed by a stylized name, possibly 'Peterson', with a long horizontal stroke extending to the right.

Ken Peterson
Commissioner
Minnesota Department of Labor and Industry

cc: Representative Lyndon Carlson Sr., DFL Lead, Ways and Means Committee
Representative Sarah Anderson, Chair, State Government Finance Committee

April 26, 2018

Representative Jim Knoblach
Chair, Ways and Means Committee
453 State Office Building
St. Paul, MN 55155

Re: H.F. 4289, Omnibus Job Growth and Energy Affordability Policy and Finance Bill

Dear Representative Knoblach,

The Department of Labor and Industry (DLI) wishes to extend its thanks for the confidence H.F. 4289, the Jobs and Energy Omnibus bill, shows in the agency.

This bill includes the Governor's request to align Minnesota Occupational Safety Health Administration (MNOSHA) penalties with federal penalties. This will ensure that DLI maintains its state OSHA plan status, which has proven beneficial to the state's employers and employees. DLI supports the proposed alignment of manufactured home fee cuts with the \$5.2 million licensing and permitting fee cuts the agency proposed last session and the language clarifying the definition of modular homes.

The bill increases appropriations for the Youth Skills Training (YST) Program and for wage theft enforcement. Added YST funding will provide more grants to local partnerships (schools and businesses), resulting in more opportunities for Minnesota youth 16+ to gain industry experience as student learners in high demand fields. However, the measure does not include funding for additional administrative demands. I urge you to consider aligning your language to that in the Senate Jobs Omnibus 3945 for YST.

DLI appreciates additional wage theft funding which, along with last year's appropriation will enable DLI to more effectively respond to wage theft complaints. I encourage the committee to consider DLI's other anti-wage theft proposals, including: increasing penalties for employers who commit wage theft; defining wage theft in statute; subpoena power to get the information needed to assist employees harmed by wage theft; and requiring more complete information be provided to employees when working for an employer. Wage theft in Minnesota not only harms workers, but also provides unscrupulous employers a competitive advantage over those who play by the rules.

While the agency appreciates the appropriations discussed above, I reiterate the Governor's request that budget and policy bills travel separately, and be debated and negotiated on their own merits. With that said, I am concerned with several specific policy proposals included in this bill and ask that you consider removing the following from the bill:

- **Requirement of legislative review and notification for residential rulemaking changes to the building code resulting in \$1,000 or more (Article 4, Section 1)** – While DLI understands the important and critical issue of affordable housing for Minnesotans, this language would impose several burdens upon DLI and other agencies with little to no benefit to the public or the cause of affordable housing. There are many contributing factors to housing cost increases, including the rising costs of land, labor, material and municipal land-use regulations that the executive branch agencies including DLI have no control over. It is also important to note the most costly changes to the residential building code in the past eight years were from the past Legislature in 2009 (radon mitigation, durability law and window-fall protection) and Governor Pawlenty (energy code).
- **Redefinition of tipped employee status (Article 5, Sect. 1 and Sect. 9)** – This language allows employers to deduct the value of a certain level of tips received by their employees from their hourly wage obligation. We do not believe cutting real wages is a workable way to grow Minnesota’s economy or to help wage earners. Applying this “tip credit” increases the likelihood of worker exploitation by allowing employers to be involved in the calculation of tips. The language also doesn’t include any requirement to notify employees that their employer is utilizing the “tip credit” as justification for paying less than the standard minimum wage.

Thank you for your time and consideration. If you have any questions, please contact me or Assistant Commissioner Heather McGannon (heather.mcgannon@state.mn.us).

Sincerely,



Ken Peterson

Commissioner

cc: Representative Lyndon Carlson Sr., DFL Lead, Ways and Means Committee
Representative Pat Garofalo, Chair, Job Growth and Energy Affordability Policy and Finance Committee

April 26, 2018

The Honorable Jim Knoblach
453 State Office Building
Saint Paul, MN 55155

The Honorable Lyndon Carlson Sr.
283 State Office Building
Saint Paul, MN 55155

Dear Representatives Knoblach and Carlson:

The farm economy is in a downturn and our rural communities are bearing the brunt of these challenging times. Even in strong economic conditions farmers face challenges from daily price swings, changes in the weather, long hours, and often solitary work environments. These pressures often impact our neighbors' mental health. The concerns of rural mental health are exacerbated by the fact that there are few health practitioners that understand the stresses of farm life.

House File 3719 contains \$217,000 in new spending for rural mental health programs and I applaud the hard work of Chair Hamilton and Ranking Member Poppe and their respective caucuses in dedicating part of our \$329 million budget surplus for rural mental health. Rural mental health is not a partisan issue and this new investment represents the bipartisan spirit found in Minnesota's agricultural community. This bill contains other bipartisan provisions that will benefit Minnesota's rural communities, such as an increase in funding for Minnesota's Farm Advocates.

However, HF 3719 also contains a partisan provision that drastically curtails the Minnesota Department of Agriculture's (MDA) rulemaking authority under the Groundwater Protection Act. This policy language is untenable and as Governor Dayton stated in his April 16, 2018 letter to Chairs Hamilton and Anderson its inclusion in this omnibus finance bill will result in the bill being vetoed.

It is scientific fact that nitrogen fertilizers can and do leach into groundwater, and it is another fact that the most prevalent use of nitrogen fertilizer is on agricultural cropland in Minnesota. A significant source of nitrate contamination in Minnesota's groundwater is the result of agricultural fertilizer use and the high levels of nitrate in some of our drinking water sources pose a serious threat to human health. Put simply, Minnesota has a problem with nitrates contaminating our groundwater and the MDA has a legal obligation under the Groundwater Protection Act as well as a moral obligation to address this issue.

As a former member of the Minnesota Senate, I have immense respect for the Legislative Branch and can appreciate your desire to confront every issue that impacts your constituents. However, rulemaking is a complex, years-long process that requires in-depth scientific analysis and continuous public engagement. It cannot occur simply during election years or through closed-door legislative deals at the end of session. It is misguided to think that rulemaking authority can effectively lie within a legislative body.

Representative Jim Knoblach
Representative Lyndon Carlson
April 26, 2018
Page 2

On Tuesday, April 24, 2018, the MDA publicly released its proposed Groundwater Protection Rule. The proposed rule is based on the best available science, and as I promised, contains a healthy dose of commonsense. I understand the rule is still being assessed by many Minnesotans, but I think it's important to note a few early responses to the rule.

- The president of the Minnesota Corn Growers Association, Kirby Hettver, told the *Star Tribune* that the proposed rule is “a reasonable approach.”
- Thom Peterson of the Minnesota Farmers Union told the *Star Tribune*, “A lot of our concerns have been addressed... A lot of farmers can work within the rule.”
- Steve Morse, Minnesota Environmental Partnership, told the *Star Tribune* the rule was a modest step but “it sets up a good framework.”

On April 30, 2018, the rule will be published in the *State Register* which will trigger an 80 day comment period. This comment period is longer than most stakeholders requested. Public comments on the rule must be submitted to the Office of Administrative Hearings. In May and June my staff and I will be traveling the state to hold information sessions on the proposed Groundwater Protection Rule and how to participate in the rulemaking process. These actions will continue the MDA's longstanding commitment to robust public engagement in this rulemaking process.

In closing, I respectfully request that the House remove the language compromising the agency's rulemaking authority. Once this provision is removed we can continue working together to help our farmers and rural communities weather these difficult times.

Sincerely,



Dave Frederickson
Commissioner

CC:

Representative Paul Anderson
Representative Rod Hamilton
Representative David Bly
Representative Jeanne Poppe

April 26, 2018

The Honorable Julie Rosen, Chair
Senate Finance Committee
3235 Minnesota Senate Building
St. Paul, Minnesota 55155

The Honorable Richard Cohen
Ranking Minority Leader, Senate Finance
2301 Minnesota Senate Building
St. Paul, Minnesota 55155

The Honorable Bill Ingebrigtsen, Chair
Senate E&NR Finance
Room 3207 Minnesota Senate Building
St. Paul, Minnesota 55155

The Honorable David Tomassoni
Ranking Minority Leader, E&NR Finance
2235 Minnesota Senate Building
St. Paul, Minnesota 55155

The Honorable Paul Gazelka
Senate Majority Leader
Room 3113 Minnesota Senate Building
St. Paul, Minnesota 55155

The Honorable Tom Bakk
Senate Minority Leader
Room 2221 Minnesota Senate Building
St. Paul, Minnesota 55155

Dear Senators Rosen, Ingebrigtsen, Gazelka, Cohen, Tomassoni and Bakk:

As you know, the Department of Natural Resources (DNR) deals with a number of ongoing budget challenges, including fund deficits, growing demands, inflationary pressures, lack of stable funding for ongoing operational needs, and the need to address emerging issues. While many of these issues were addressed in last year's biennial budget, the Governor's supplemental budget recommended several budget and policy changes to address urgent needs and emerging issues.

I appreciate the inclusion of a majority of the recommendations of the Governor's policy and technical recommendations in the Senate Omnibus bill, SF3656, bill as well as funding for Chronic Wasting Disease (CWD). In addition, the Senate bill provided funding for DNR-related activities that were not in the Governor's Budget including aggregate mapping, aquatic invasive species grants, and many trail projects. However, the Senate bill does not fully address the DNR's urgent funding issues for CWD, forest inventory, and mining research. The Senate bill also reduces funding for critical water programs and legal support costs. As you know, the Governor has indicated his intent to veto bills that cut the operating budgets of state agencies.

I, and my staff, have testified in committees with our various concerns; the purpose of this letter is to summarize those concerns.

BUDGET

Chronic wasting disease (CWD) – Article 13, Section 3

The current Senate appropriation would require that the DNR continue to utilize hunter fees from the Game and Fish Fund (GFF) for ongoing CWD response. While the Senate bill provides \$500,000 in

Heritage Enhancement funds for CWD response, the anticipated need, and the Governor's budget request, is for \$1,560,000 from the general fund. Absent this funding, and in order to ensure a full response to CWD, DNR would need to continue to use GFF dollars. In FY 2017, we spent over \$870,000 from the GFF on CWD response, and we estimate we will spend close to \$1.4 million in FY 2018 of which over \$435,000 will be from the GFF. Our estimate for FY 2019 remains at the Governor's requested amount of \$1,560,000.

CWD response is not a hunter responsibility, and the impacts of CWD go well beyond impacts to hunting. We believe that hunters should not be required to bear the costs of CWD disease response. In order to ensure an appropriate response to CWD under the Senate proposal, DNR would have to use GFF dollars for more than half of the estimated need for FY 2019. Continued use of GFF for CWD efforts will reduce efforts for deer management such as habitat management work, which are strongly supported by license buyers.

Voter registration – Article 13, Sec 27

DNR supports the concept of providing information to DNR customers on voter registration. However, the current Senate proposal is overly prescriptive, and we are concerned about creating instability in the on-line licensing system.

While we appreciate the movement to find a source of funding outside of the Game and Fish Fund to carry out this work, we cannot support a reduction from previous legal support appropriations, especially when the bill reduces these funds. As a reminder, the ELS system and our hunting and fishing regulation books are paid for with GFF dollars. The use of GFF are restricted by Minnesota Statutes 97A.057 which states, "*Money accruing to the state from fees charged for hunting and angling licenses shall not be used for **any purposes other than game and fish activities and related activities.***" In addition, DNR is obligated to comply with all Federal Aid in Wildlife Restoration Act and Fish Restoration Act sections which require that revenue from hunting and fishing licenses be: *(1) controlled by the State fish and wildlife agency; and (2) used only for administration of the state fish and wildlife agency, which includes **only the functions required to manage the agency and the fish and wildlife related resources for which the agency has authority under state law.***

We recommend a new appropriation to cover these costs or an option for a no-cost solution to provide this information, such as a link to the Secretary of State for voter information on the DNR website for hunting and fishing. We would like flexibility to work with our vendor and programming staff to find the most appropriate place to display the registration information.

Forest inventory

The Senate budget does not include the Governor's request for \$1 million for forest inventory work. Absent this funding, we will be unable to reduce our current 20-year inventory cycle to 15 years. Forest inventory data is the primary dataset used in our recent Sustainable Timber Harvest Analysis and played

a critical role in projecting timber volumes and forest conditions over time. The analysis was limited, however, due to the age of the data.

Discussions with the independent contractor who prepared the analysis and with stakeholders and industry representatives, all point to the need to improve forest inventory for ongoing management and future planning efforts. Reliance on inaccurate or old data increases the risk of over and under harvesting, reduces the ability to address high-risk timber and reduces our understanding of forest age and health conditions for wildlife habitat and biodiversity management. This increased risk will be seen within the timber industry and may limit our ability to attract industry to Minnesota and puts wood using industries at a greater risk for future economic impacts.

Forestry Next Generation IT system – Article 13, Section 3

The Senate bill reduces funding for the Next Generation (Next Gen) Core Forestry Management IT system. We have already reduced functional requirements in Next Gen based on the level of funding received in last year's legislative session. As you may recall, our original request was for \$6 million over four years. Last year, we received \$5.262 million over the four years, a reduction of \$738,000 from our original request.

The Senate position would further reduce the funds available by another \$393,000 over the next three years bringing the total reduced budget that we need to manage this project to \$1.131 million. These reductions will lead to a less robust system that will impact forest management and potentially create serious inefficiencies.

The bill also transfers the base appropriations for these funds from the general fund to the FMIA account. While the current forecast indicates that this account can temporarily sustain the shift, the long term impacts are unknown. Continued reliance on this fund will increase the risk of impacting other forest management activities, especially if revenues to the fund decline significantly.

Water monitoring and compliance funding reduction – Article 13, Section 3

The Senate bill reduces the general fund appropriation for water use and monitoring. With this reduction, up to 10 FTEs could be lost, and DNR would experience a significant decrease in our capacity to provide technical analysis and review of permit applications causing delays in processing of appropriation permits by several months. Reduced technical analysis capacity could result in delays up to six months or more to permit applicants like cities, irrigators and businesses. In addition, we will have reduced capacity for the analysis of well interferences, irrigation management, and technical support for water supply planning efforts for growing communities. Completion of groundwater modeling for legislatively-required tasks relating to Bonanza Valley Groundwater Management Area, City of Cold Spring, Vermillion River area, the City of Rochester, and the Straight River will also be impacted.

Mining Research

The Senate bill does not include funding for mining research. Without this funding, we are not able to sustain our efforts in applied mining research. For 40 years, DNR research has provided the foundation for mine permit decisions and techniques for long-term environmental protection. Historically, the \$638,000 DNR research program has been funded by equal state and industry funds.

Over time, industry match funds have disappeared and only state funds remain, leaving the program at 50 percent of prior levels. Without additional funding to bring the program back to its full budget, DNR will need to significantly reduce or eliminate much of the ongoing research. This would be detrimental to the long-term efficiency of the permitting process and would prevent development of proactive solutions to future environmental protection challenges – an unacceptable situation given renewed interest in Minnesota’s mineral resources.

Legal Support Appropriation Reduction - Article 13, Section 3

The Senate bill reduced the appropriation to DNR for legal support costs by \$492,000 for the FY 18-19 biennium. Similar to the reduction for water monitoring, it appears this reduction is necessitated to fund the change in payments to lottery retailers.

While DNR spending on legal support costs for one-time large cases such as Fargo-Moorhead Diversion, White Bear Lake, and PolyMet have been relatively quiet in fiscal year 2018, this will change quickly and dramatically. Any permitting decisions in the PolyMet matter may end up being the focus of contested case proceedings. Legal and administrative challenges to PolyMet permitting could occur simultaneously, similar to what is occurring at the federal court level with four lawsuits in federal district court challenging the United States Forest Service’s record of decision approving the land exchange with PolyMet. Cost of challenges can be hundreds of thousands of dollars for a single challenge. Given the stage of our permit review, I anticipate seeing an upward movement in our legal spending for PolyMet.

For White Bear Lake, the DNR has received 17 requests for contested case hearings to challenge changes to water-appropriation permits in accordance with the court order. Again, there is potential of simultaneous administrative and judicial actions in this matter. Between FY 2013 and FY2018, the Attorney General billings for White Bear Lake were approximately \$808,000, this number does not include internal staff costs.

Finally, judicial challenges have been stayed in the Fargo-Moorhead matter as parties have been attempting to resolve through the task force process. If the task force process is unsuccessful, then currently stayed appellate litigation at the United States Court of Appeals would re-evaluate, and the DNR would incur substantial legal costs.

I understand based on comments from the chair that the intent is to provide funding for legal costs when we know more what the costs are. The reduction of legal support cost funding increases the risk of needing to tap into operating budgets to support legal challenges when these costs do arise. There is no guarantee of future funding from the legislature and therefore a reduction to legal support costs will put the agency in a position where we may be unable to defend state interests.

POLICY

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

Moratorium on muskellunge stocking in Otter Tail County – Article 14, Section 103

We do not support the moratorium on muskellunge (muskie) stocking in Otter Tail County. The proposed moratorium would impact stocking of three lakes that have a long history of muskie stocking (West Battle, Beers Lake, and Pelican Lake). The West Battle Lake association has twice reiterated support for our stocking program, and Beers Lake is entirely located within Maplewood State Park. Further, a moratorium would interfere with a 10-year stocking/tagging study (2015-2024) of muskie fingerlings in Pelican Lake, looking at survival, growth and natural reproduction. A five-year gap in stocking will create a void of year classes—and sizes of muskie—that will negatively impact these fisheries. Anglers will see a decline in fishing quality.

This provision also requires the DNR to convene a stakeholder group to examine existing research on “the effect of muskie on the environment” and determine if more research is necessary. Numerous studies have investigated the relationship between muskie and other fish species and concluded there is no adverse impacts caused by muskie. The DNR collects fisheries information on lakes, some of which are stocked with muskies. We have no evidence that muskies are negatively affecting the fish communities of the lakes. If such a study is required, we recommend that muskie stocking in Otter Tail County be allowed in the three lakes that are currently stocked until and unless the study concludes an adverse effect.

Indirectly related to this policy provision is a \$100,000 appropriation from the Heritage Enhancement account (Article 1, Section 3, Subd. 3c) to complete a statewide survey on attitudes toward fish stocking. The DNR collects stakeholder data, including fish stocking preferences, and believe we have widespread support for fish stocking where it creates and/or improves a fishery. We are supportive of additional research about Minnesotans attitudes toward fish stocking.

The list of concerns outlined in this letter is not comprehensive, but rather contains those provisions of greatest concern to the DNR. I, and my staff, are available to answer any questions on these outlined concerns or any other parts of the bill. Thank you for your consideration.

Sincerely,



Tom Landwehr
Commissioner

April 26, 2018

The Honorable Jim Knoblach
Chair, House Ways and Means Committee
Minnesota House of Representatives
453 State Office Building
St. Paul, MN 55155

The Honorable Lyndon Carlson
DFL Lead, House Ways and Means Committee
Minnesota House of Representatives
283 State Office Building
St. Paul, MN 55155

Dear Members of the House Ways and Means Committee:

As the commissioners of agencies whose core work involves helping Minnesotans and Minnesota businesses understand the laws passed by the Legislature and how those laws will be implemented, we write in opposition to new administrative rulemaking provisions in sections 2, 3, 5 and 7 in Article 3 of House File 4016, of the Omnibus State Government and Finance Bill.

These provisions are from HF 3445 / SF 3113. This bill seeks to establish a new process, much like rulemaking, for the formation and maintenance of a broadly-defined group of “policies.” We appreciate the changes to language offered since introduction of this bill, especially the removal of letters and contracts from the definition of “policy.” However, we remain opposed to these provisions because they create new costs that are not funded, will serve to slow down agency work, create redundancy, and have serious unintended consequences. Our concerns:

- **The definition of policy is overly broad.** By defining policy to include “written policy, guideline, bulletin, manual, or similar document providing an interpretation, clarification or explanation of a statute or rule to provide guidance for agency regulatory functions including but not limited to permits or enforcement actions,” we are concerned this bill casts a wider net than my be expected.
- **The bill sets an unfunded mandate for five-year public notice/comment/review of all ‘policy.’** The bill voids any ‘policy’ that does not go through a review every 5 years. This review must include a public notice and public comment period – both of which will incur administrative costs. The immediacy of the effective date on existing policies would create a significant administrative burden.
- **The bill creates redundancy by requiring the re-vetting of federally approved language.** The language creates redundancy in cases where agencies adopt federal policy in whole, because those policies already have been reviewed and vetted at the federal level.
- **The bill would prevent agencies from providing compliance guidance to regulated industries.** Agencies provide policy information to communicate with regulated entities, to send notification regarding new state and federal laws and regulations, and articulate procedures for complying with statutory requirements. The bill’s restrictions on providing this guidance may create delays and inefficiencies and cause market disruptions harming industry and consumers.
- **This bill expands the authority of legislative committees into the powers of the executive branch by requiring a delay of policy implementation during legislation session.** An example of unintended consequences is the impact of this provision on Minnesota college students who need financial aid. The bill would hamper the Office of Higher Education’s ability to make timely

Members of the House Government Operations and Elections Policy Committee

April 25, 2018

Page 2

updates to policies and procedures by which they administer financial aid programs. As a result, this bill could impact post-secondary students' financial ability to attend and complete college.

- **Not all agencies can maintain a public policy docket without necessary funding.** Requiring the collection and posting of every agency policy, guideline, bulletin, manual or similar document providing a clarification or explanation of a statute or rule to provide guidance for permits or enforcement actions can present staffing issues. Many agencies have full-time staff already devoted to rulemaking. This bill necessitates similar staffing for policies.
- **Removing the governor's waiver authority removes the only available recourse for an agency that believes an administrative law judge has misconstrued the law.** Even if the language were to provide authority to appeal an ALJ's decision to the Minnesota Court of Appeals, an appeal process will take more time and money than the current waiver option.

For these reasons we do not support these provisions, especially since bill advocates have not clearly articulated the specific problem(s) they seek to address. This bill contains several new administrative 'hoops' without providing commensurate value.

Sincerely,



Thomas Landwehr, Commissioner
MN Department of Natural Resources



John Linc Stine, Commissioner
MN Pollution Control Agency



Charles Zelle, Commissioner
MN Department of Transportation



Matt Massman, Commissioner
MN Department of Administration



Larry Pogemiller, Commissioner
MN Office of Higher Education



Ramona Dohman, Commissioner
MN Department of Public Safety



Jessica Looman
MN Department of Commerce



April 26, 2018

Representative Jenifer Loon
Chair, House Education Finance Committee
449 State Office Building
St. Paul, MN 55155

Representative Loon,

As HF4328, the omnibus education bill, moves to the House floor for consideration, I write to share my position on its provisions. There are provisions that I support, provisions I believe we can work on, and provisions that I simply cannot support.

I would like to thank the chair for securing a \$30 million target. Although this is less than Governor Dayton's proposal, it is a good start. I encourage all members to advocate for a higher target to give schools critical support in areas such as school safety, early education, special education, and funding for our federal Bureau of Indian Education schools.

I appreciate Chair Loon joining the governor in taking a strong stand for school safety. The safe schools funding in the bill, including funding for our shared priority of expanding school-linked mental health grants, is a welcome provision. I encourage the chair to go one important step further and include ongoing safe schools funding for our intermediate schools who serve some of our most vulnerable children with complex needs, and to send a clean safe schools bill to the governor for his signature.

At least 195 school districts have passed resolutions telling us special education funding is their top priority this year. The governor's proposal to begin addressing the unfunded mandates will offer school districts immediate relief from the growing cross subsidy. I would like to acknowledge the House's proposal to increase special education funding in the future; however, the delayed implementation date of 2022 will only exacerbate the growing cross subsidy, which is projected to swell to more than \$800 million by FY20 without immediate action.

We all agree access to high-quality early learning opportunities is key to success in schools for all students. After years of investing in our littlest learners, it is alarming that this bill does not take steps to preserve the 4,000 seats in voluntary prekindergarten and school readiness plus programs passed last session. The uncertainty that delayed action would create for school districts and charter schools that stand to lose funding—and the families who are counting on the programs their schools have created—is a high a price to pay when we have the means to solidify our mutual commitment to our young learners and their families.

The absence of funding for Help Me Grow—for the third year in a row—is a missed opportunity, as is the failure to include common sense changes to early learning scholarships that will allow children from birth to age 3 to access the scholarships. And, while MDE supports the administration of the Kindergarten Entry Profile, which could be fully funded for \$1.5 million per year, this bill would only assess 10 percent of incoming kindergarteners, which is insufficient to provide the data the Legislature and educators seek.

In recent years we have made significant progress in addressing the educational needs of our American Indian students, with additional equalization aid so that American Indian students attending our Bureau of Indian Education schools receive equitable funding like every other Minnesota student. If we do not act to make this funding permanent, those schools will suffer devastating cuts that will seriously hamper their efforts to improve outcomes for our American Indian students.

I appreciate Representative Erickson working with my staff and me on aligning World’s Best Workforce requirements with the components of our plan under the federal Every Student Succeeds Act. However, I believe it is best that we discuss this proposal in a separate policy bill.

The \$2 million cut to MDE’s operating budget in the next biennium would devastate our new accountability work and negatively affect our ability to deliver highly sought-after support to schools. As Governor Dayton has stated and made clear in his letters to Senate and House leadership on April 9 and April 23, with a \$329 million surplus, cuts to agencies “are entirely unwarranted,” and he will not accept them. He also cannot support a bill that includes policy. This bill includes the entire House policy bill, which carries with it several policy proposals and omissions that are controversial. These should be removed and placed in a separate bill.

While Chair Loon’s proposal on a summative rating system has come a long way from the form the proposal took initially, the system is still unacceptable. There is nearly unanimous consensus that No Child Left Behind did not work, so it is inexplicable that some would want to go back to the shame-and-blame system that offered no real benefit to students or schools. A broad and diverse stakeholder group met this winter and spring to establish needs and develop recommendations that will inform the creation of transparent, parent-friendly report cards with summary information about every school’s performance. Let us listen to the meaningful input of the hundreds of stakeholders who have been part of this exhaustive work.

Finally, I strongly oppose the requirement that students take a naturalization test that undermines the rigor of our comprehensive social studies standards, and I oppose statewide reporting on it. If there is broad agreement that a civics test is warranted, then it should have the same academic rigor as our other tests. I would support a civics credit requirement in high school, as long as it does not add to the already crowded field of graduation requirements.

We have less than a month to go, and though I cannot support this bill in its current form, my staff and I stand ready to roll up our sleeves and get to work to find agreement and deliver a bill that supports our kids, that we can all be proud of, and that the governor can sign.

Sincerely,



Dr. Brenda Cassellius
Commissioner of Education

CC: Rep. Jim Davnie, DFL Lead House Education Finance Committee
Rep. Sondra Erickson, Chair House Education Innovation Policy Committee
Rep. Carlos Mariani, DFL Lead House Education Innovation Policy Committee



April 26, 2018

Senator Julie Rosen
Chair, Senate Finance Committee
3235 Minnesota Senate Building
St. Paul, MN 55155

Senator Carla Nelson
Chair, Senate E-12 Finance Committee
3231 Minnesota Senate Building
St. Paul, MN 55155

Senator Rosen and Senator Nelson,

As the full Senate considers the E-12 portions of the Senate omnibus finance bill, I would like to convey my positions on provisions in the bill that I support, those that I believe we can work on in a bipartisan way, and those that I simply cannot support.

While the allocation for safe schools is a promising start, the education finance target is disappointing when we have a \$329 million dollar surplus and our schools still find themselves patching together inadequate budgets. We have been told that any target outside of the safe schools allocation must be found in current funding appropriations. So we see proposals funded by cuts to the Perpich Center for Arts Education, and to Minnesota Department of Education's (MDE) budget. We need a larger target, and one that does not come at the expense of our crucial institutions.

As mentioned above, I appreciate that Chair Nelson includes funding for school safety and that there is modest ongoing funding for districts and charters. However, the proposal only provides one-time funding for cooperatives and leaves out intermediates, the very schools that serve some of our most at-risk youth. I challenge the Senate to increase their safe schools appropriation and make it ongoing for all districts. I also find it troubling that the bill prohibits new safe schools funding to be used for school climate, which was added as a use for the safe schools levy during the anti-bullying bill discussions and is a crucial area in school safety. Also, Governor Dayton stated in letters on April 9 and April 23 to Senate and House leadership, the Legislature should send a clean safe schools bill for the governor's signature as soon as possible. I am encouraged that Senator Pratt and Representative Loon have introduced those bills. We have the opportunity; now let's act. Unfortunately, outside of funding safe school aid, there is little we agree on.

Children and families across the state are benefitting from the voluntary prekindergarten and school readiness plus programs made possible by last year's early learning investments, and are counting on us to maintain our commitment to them. Without action to continue this funding, more than 4,000 children stand to lose out on this important opportunity, and districts and charter schools will be forced decide whether they can afford to keep offering these valuable programs. At a minimum, we should follow the governor's lead, and make permanent the early learning funding which we agreed upon last session.

I also have very strong concerns regarding the requirement on future prekindergarten funding to have a 40 percent allocation toward a mixed-delivery system. Even though there is a waiver on this requirement, I strongly believe we should honor local control and not shift the burden to participants to prove that a mixed-delivery system does not work for them. I would like to note that because of the Legislature's emphasis on the importance of mixed-delivery last session, and the time for districts and charter schools to develop relationships with community partners, we have seen an increase in mixed-delivery applications and awards.

At least 195 school boards have asked us to help with the crisis of the growing special education cross-subsidy. The governor listened and proposed \$16.9 million in FY19 and almost \$43.5 million in the next biennium to buy down the

growth in the cross-subsidy. Unless action is taken, the current \$687 million in unfunded costs is anticipated to grow to over \$800 million by FY20. We have a surplus; we should be addressing this crisis.

Missing from this bill is full funding for the GED. For the small investment of \$400,000 we could provide the GED to all who want to take it for free. The \$120 fee for the GED may seem small to some, but it is a real barrier for others.

In prior sessions, this body has made great strides on a bipartisan basis to provide support to our American Indian students, but the fact remains that the federal government grossly underfunds our Bureau of Indian Education schools. We stepped in and provided equalization aid the past two funding sessions. However, that funding has always been one-time. This funding needs to be sustainable and ongoing so students attending these schools are given the same level of funding as any other Minnesota student.

This bill cuts MDE's FY19 budget by almost \$1 million and redirects those funds to various small grants and other initiatives. If the Senate is prioritizing these grants and direct appropriations, then it should find new money to fund them and not arbitrarily cut agencies. The funding cuts would severely undermine the agency's new accountability work and negatively affect our ability to deliver critical and highly sought after support to schools. The funding for these grants and initiatives also come from a \$725,000 cut to the Perpich Center for Arts Education, undercutting its efforts to regain fiscal stability. As Governor Dayton made clear in his most recent letter on April 23, with a \$329 million surplus, cuts to agencies "are entirely unwarranted," and he will not accept them.

Furthermore, MDE and the Legislature are parties in two major lawsuits. Last year MDE was appropriated money to cover the costs of litigation. Your bill seeks to eliminate that funding before these cases are resolved. Both cases are currently pending before the Minnesota Supreme Court. If either of these cases are sent back to the lower courts for further proceedings, there will be significant costs for expert witnesses and other related litigation expenses. Eliminating the existing funding will make it impossible for the Attorney General's Office to adequately defend these lawsuits. By making the cuts contingent on whether these funds are used, you are putting at risk other investments you have included in the bill.

Finally, I cannot support a proposal that poses as "academic balance," but merely serves to intimidate teachers, chill interdisciplinary studies, and stifle academic debate about issues that some deem controversial. Confronting tough issues in a constructive learning environment is crucial to a student's development into a productive and thoughtful citizen.

Again, I appreciate the recognition of the importance of safe learning environments. However, I cannot support this bill in its current form. I look forward to working with the chair in hopes that we can agree to a bill that the governor can sign.

Sincerely,



Dr. Brenda Cassellius
Commissioner

CC: Senator Richard Cohen, Minority Lead of Senate Finance
Senator Charles Wiger, Minority Lead of Senate E-12 Finance



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www.mnhousing.gov

April 26, 2018

The Honorable Jim Knoblach, Chair
Ways & Means Committee
Minnesota House of Representatives

The Honorable Lyndon Carlson, DFL Lead
Ways & Means Committee
Minnesota House of Representatives

RE: HF 4289, Omnibus Job Growth and Energy Affordability Policy & Finance Bill

Dear Representatives,

I am writing to provide comments from Minnesota Housing on the Omnibus Job Growth and Energy Affordability Policy and Finance bill.

Homework Starts with Home

The Governor included \$4 million in his supplemental budget for Homework Starts with Home and made the program part of Minnesota Housing's base budget. This funding is used to provide short-term and long-term rental assistance to families with school-aged children that are homeless or highly mobile. The initiative would help provide stable housing for 500 families, including an estimated 1,000 Minnesota kids. This initiative builds on the success of a pilot program that created housing stability for 90 percent of participants and strengthened attendance for students. There is statewide need for this funding. In the 2016-17 school year, students facing homelessness attended 1,241 different schools located across 77 of Minnesota's 87 counties.

We appreciate that the omnibus bill includes \$1 million in additional one-time funding for the initiative; however, we are concerned that the funding comes from cuts to programs at other agencies in our bill area. We hope that as the budget process continues, funding cuts will be restored and the committee will consider funding this important initiative at the level proposed by the Governor. This level will allow the program to be extended to more school districts across the state.

Tax-Exempt Bond Reform

The omnibus bill includes HF 2112 which pertains to tax-exempt bond reform. A work group of housing stakeholders met over the course of the summer and fall last year and agreed to five consensus items that should make up any bond reform package. These five items are reflected in HF 2112 and the omnibus bill. However, we remain concerned about the two additional items in this bill beyond the consensus items.

We have significant concerns about the provision in Article 4, Section 12 on lines 60.3 through 60.14 that 'automatically' allocates affordable housing tax credits. This provision is not in compliance with federal law. We are also concerned about the provision of the bill in Article 4, Section 21 on lines 64.18 and 64.19 that eliminates the state's housing priority for homeownership for two years. We have also provided information on technical concerns about the bill to its authors in a joint letter from Minnesota Management and Budget. We appreciate the ongoing conversations we are having on these issues and hope to find a resolution.

Manufactured Home Park Infrastructure

This bill includes one-time funding for the Manufactured Home Park Redevelopment Program. While this is not a part of the Governor's budget, we believe that manufactured housing is an important affordable housing resource. However, we are concerned that funding for this program comes from cuts to programs at other agencies in our bill area.

Manufactured Home Relocation Trust Fund

We appreciate that the bill includes HF 3285 to increase the cap on the manufactured home relocation trust fund from \$1 million to \$3 million. This provision was also included in the Governor's supplemental budget.

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

Sincerely,



Mary Tingerthal
Commissioner

cc: Members of the House Ways & Means Committee



April 16, 2018

Senator Torrey Westrom
Minnesota Senate Building 3201
St. Paul, MN 55155

Senator Rich Draheim
Minnesota Senate Building 3277
St. Paul, MN 55155

Representative Jim Knoblach
453 State Office Building
St. Paul, MN 55155

Re: Technical Issues with HF2112 and SF2893

Dear Senator Westrom, Senator Draheim, and Representative Knoblach:

As the agency charged with administering the state's tax-exempt bonding allocation program under Minnesota Statutes, Chapter 474A, I am writing to describe various technical issues presented by HF2112, as amended, and SF2893, as amended. If the issues outlined in this letter are not addressed and one of these bills is passed and signed into law, Minnesota Management and Budget's (MMB) ability to administer the program will be impaired.

First, the tax-exempt bonding authority allocated under chapter 474A is a finite resource granted by the federal government on an annual basis, and should be kept readily available to projects that are shovel ready and can deliver affordable housing that benefits Minnesotans. This became a scarce resource in 2016 and 2017 when a large number of residential rental projects were seeking allocations, and MMB saw projects that did not get the full allocations they needed.

Second, the State of Minnesota has one of the more complex schemes for allocating tax-exempt bonding authority of the various states. The proposed amendments to chapter 474A introduce even greater complexity and will place a heavier administrative burden on MMB to ensure all the new requirements are being adhered to.

Third, tax-exempt bonding allocation authority exists on a calendar year basis. The proposed legislation attempts to amend several sections of chapter 474A by confusing the calendar year nature of this resource. The paragraphs that follow expand upon these general issues.

Tax-Exempt Bonding Allocations Operate on a Calendar Year Basis

New language proposed for sections 474A.061, subd. 2a and 474A.091, subd. 3(f) obligates MMB to reserve for up to 24 months any final balance in the housing pool or unified pool that was too small to award to a project in a lottery. However, tax-exempt bonding authority is only available on a calendar

year basis and MMB has no right under federal tax law to reserve unallocated balances beyond the calendar year in which the allocation originated. If bonds are not issued by an applicant, or the allocation is not carried forward under state and federal law, the bonding authority disappears. Current law only allows entitlement issuers to carry forward their entitlement allocations, and the proposed legislation does not explicitly create a carry forward right for any other applicant.

It appears the proposed legislation does not really intend for MMB to reserve an allocation for 24 months, since under proposed revisions to section 474A.131, subd. 1b this “reservation” would merely be allocated to Minnesota Housing Finance Agency (MHFA) at the end of the calendar year for carry forward. In this case, the language regarding a 24 month reservation is too complex and confuses what will happen at the end of the year.

If a residential rental project does not receive any of its requested allocation in a lottery, the language requires MMB to reserve remaining bonding authority “for such project.” However, as proposed, the language clearly presumes there will only be one project that does not receive any of its request. It is feasible that multiple projects receive no amount in times of high demand, and the legislation does not provide any direction for this type of scenario.

The 18 month extension to issue bonds proposed in amendments to sections 474A.061, subd. 2a and 474A.091, subd. 2 similarly causes multiple problems. First, it conflicts with the language that allocates unissued balances to MHFA for carry forward. If an applicant elected the 18 month extension, the language implies it would be carrying forward its allocation into a subsequent calendar year. If carried forward by the applicant, that amount could not later be allocated to MHFA for carryforward, since federal law only permits one carry forward election. Second, it conflicts with other language in those respective paragraphs stating that amounts returned to MMB may be reallocated. Amounts can only be reallocated in the same calendar year in which they originated.

Increased Administrative Complexity

The legislation would grant an open-ended right of an applicant that did not receive its full requested amount to stand first in line within its priority level should it apply again “in the future.” This open-ended right will be complicated to track administratively. To encourage shovel ready projects this right should be time limited. For example, if MMB is required to reserve remaining balances in the housing pool, the applicant should apply to the unified pool in the same year in an attempt to secure the full amount of its request.

MMB’s ability to sort residential rental project applications into their correct priority orders will also become much more complex. The proposed legislation introduces a new level of specificity to the different project priorities. The only proof required by the legislation that a project is correctly described in an application is a sworn statement by the applicant. MMB has concerns about this minimum level of accountability and ensuring the intent of the act is being followed.

Proposed language would require MMB to retain 50 percent of an application deposit for a residential rental housing project until project completion; however, the language does not reference other provisions that could charge penalties against the deposits. Further, because this provision will lengthen the amount of time MMB is holding funds the state has no legal right to, this provision

imposes a greater burden on MMB's financial reporting responsibilities. Finally, the intent of the amending language to section 474A.131, subd. 1 in HF2112, as amended, regarding deposits is unclear.

One issue unique to the SF2893, as amended, is that language on lines 40.10 to 40.11 of the DE4 amendment should be repeated again after line 40.20. This appears to be an oversight to the proposed unified pool changes, and this change would conform to the proposed changes to the housing pool.

MMB appreciates the addition of language in HF2112, as amended, allowing us to collect application deposits by wire payments in addition to checks, as this better aligns with current payment processing options. While this language was added to section 474A.061, subds. 1 and 1a, it also needs to be added to section 474A.091, subds. 2 and 2a. Alternatively, while "by check or wire transfer" is helpful language, it may be limiting if payment options continue to evolve. To truly modernize the statute, simply allowing "payments" without reference to checks or wires will grant the most flexibility moving forward.

Technical Concerns Regarding Minnesota Housing's Implementation

The proposed legislation requires Minnesota Housing to reserve amounts it carries forward for individual projects that did not issue bonds before the end of the year; however, there is no provision for what happens to Minnesota Housing's reservation if the project never moves forward. If Minnesota Housing is not able to use the carried forward allocation for other purposes, we run the risk the allocation will simply disappear and Minnesotans will lose that resource.

The proposed language in section 474A.131, subdivision 1 requiring Minnesota Housing to issue debt on behalf of individual projects whose allocations were carried forward by Minnesota Housing conflicts with Minnesota Statutes, section 462A.04. That statute vests the management, control and powers of the agency, including the power to issue debt, in Minnesota Housing's independent board.

In addition, the proposed changes to section 474A.091, subdivision 6, requiring Minnesota Housing to use its carry forward balances prior to issuing bonds under current year allocations, are unnecessary. MHFA already utilizes its oldest carry forward balances first. Prohibiting Minnesota Housing from using current year allocations until all carry forward authority is used is cumbersome and has unintended consequences. Further, the likely result is that the current year authority will be carried forward to the next year, reinforcing that this provision is unnecessary.

Finally, with the new added definition of area median income 'AMI,' we believe there was an inadvertent change to the AMI definition used for the Minnesota Cities Participation Program under section 474A.061, subdivision 2a that would create challenges with how the program is currently administered.

Implementation Timing Concerns

If enacted into law this session, it will take MMB time to update the required application forms and develop instructions for applicants reflecting the new requirements. We will not be able to complete this process in advance of the proposed creation of the unified pool on July 1, 2018 with enough time

April 16, 2018

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to give notice to applicants about the updated procedures. If MMB's administrative process is not complete by July 1, the unified pool rules should not change midway through 2018. Instead, these changes could be more acceptably implemented on January 1, 2019 when the next housing pool will be created. Since the program runs on a calendar year, it would eliminate confusion and provide the necessary time to make programmatic changes if the effective date was January 1, 2019.

Additional Housing Policy Concerns with House Language

Besides the administrative and technical concerns identified above which appear in both the House and Senate bills, Minnesota Housing has two primary concerns with the language in the House.

First, we have significant concerns about the provision that 'automatically' allocates affordable housing tax credits. Federal law requires states to designate allocators for the federal low-income housing tax credit program. Minnesota Housing is designated as the primary allocator of these tax credits. The automatic allocation of tax credits is not in compliance with federal law. Under federal law, tax credits may only be issued pursuant to a Qualified Allocation Plan (QAP). Requiring Minnesota Housing to automatically issue tax credits to certain developments, regardless of the QAP requirements, would put the state out of compliance with federal law. The QAP also requires certain submittals in order for Minnesota Housing to determine that a property complies with the federal program. Without that information, Minnesota Housing would be unable to ensure that the property complies with the federal requirements. It would also not allow us to evaluate issues such as cost reasonableness, which we know is an important policy consideration both for Minnesota Housing and the Legislature

Second, the bill eliminates the state's housing priority for homeownership for two years. This set-aside of the federal resource is used for the Cities Participation Program and is a long-standing federal, state, and local partnership. Minnesota Housing currently administers the program on behalf of cities, counties and other organizations that choose to participate in the program by applying in January for bond allocation. Minnesota Housing can only run the program after receiving applications from communities and every year we are over-subscribed. Communities across the state utilize this program, as well as Minnesota Housing's down payment and closing cost assistance programs, to help finance thousands of first-time homebuyers each year. With our current financing model, the \$60 million set-aside leverages over \$150 million in activity, helping to create over 1,000 first time homebuyers.

We would be happy to work with you on amending language that addresses the issues outlined in this letter.

Sincerely,



Myron Frans
Commissioner, Minnesota Management and Budget



Mary Tingerthal
Commissioner, Minnesota Housing

April 26, 2018

The Honorable Jim Knoblach, Chair
Ways and Means Committee
Minnesota House of Representatives
453 State Office Building
100 Rev. Dr. Martin Luther King Jr. Boulevard
St. Paul, MN 55155

The Honorable Lyndon Carlson Sr., DFL-Lead
Ways and Means Committee
Minnesota House of Representatives
283 State Office Building
100 Rev. Dr. Martin Luther King Jr. Boulevard
St. Paul, MN 55155

Dear Representative Knoblach and Representative Carlson:

I write in regard to House File 3502, the Omnibus Environment and Natural Resources Policy and Supplemental bill, which is before the House Ways and Means Committee today.

On a positive note, I want to convey my thanks to the committee chair for his willingness to discuss issues relating to this bill. In addition, I appreciate that two small technical provisions from the Minnesota Pollution Control Agency's (MPCA) policy are included in the omnibus language.

Governor Dayton has said he will veto any bill that results in reductions to agency budgets. House File 3502 contains new mandated spending of \$199,000 in FY2019 and \$184,000 every fiscal year thereafter from the Environmental Fund while providing fee revenue to cover only a portion of that cost. This new mandate is for a voluntary deicer applicator certification program; the funding source for this new program should be from the General Fund.

Several policy items in House File 3141 are also problematic:

- **Wild Rice** – Sections 94 and 110 – 117 are from House File 3280, the wild rice bill. We strongly oppose these provisions because they prohibit the agency from moving forward on protecting wild rice. These provisions prevent the commissioner from using sound, peer-reviewed science to protect wild rice in the future, and also prohibits the commissioner from enforcing the existing 10 mg/L sulfate water quality standard – which is both state and federally enforceable. Thus, Minnesota will be left with no water quality standard to protect wild rice. These sections will result in an avalanche of litigation because the agency would be breaking federal law if the current standard is not applied to permits or if the agency does not use the most up-to-date science in writing permits. Another concern is the language applying to all of the standards to protect the use of Minnesota waters for irrigation purposes, which short-circuits an ongoing rulemaking and threatens the availability of water for agricultural irrigation in the future.
- **Water Fees** – Sections 56, 60-62, and 78 prohibit the agency from increasing fees for a variety of water-protection purposes without legislative approval. Specific fees included are for training water pollution control personnel, certifying water supply system operators and wastewater treatment facility operators, certifying wastewater laboratories, and for issuing water permits for industrial wastewater facilities, municipal wastewater treatment facilities, stormwater permits for cities, businesses and construction sites, and feedlots. We oppose these provisions because they are redundant. The Legislature has sufficient opportunities for oversight of the agency already including committee hearings, appropriations, reporting requirements, audits by the Legislative Auditor, and direct communication.

- **Deicer applicator certification** – Section 83 creates broad immunity for businesses and homeowners who use commercial applicators that have been certified. Because it defines a commercial applicator as “an individual or company and its employees that apply deicer for hire,” Section 83 requires that a commercial applicator company need only have one employee certified to trigger the above immunity. Thus, this immunity language actually is a disincentive for private firms to train more than one of their employees. Immunity should only be available if the deicer is actually applied by a trained individual applicator, and not simply an untrained applicator of a “certified” company. Another concern is the training fee cap of \$250 for a half-day training session. This cap may result in fewer training sessions offered statewide unless we can secure sufficient in-kind donations to defray costs.
- **Construction and Demolition Landfills** – Section 108 adds requirements to the permitting process for construction and demolition landfills. Many such landfills across the state are releasing contamination into groundwater at levels that require the agency to act because those levels exceed one or more of the Minnesota Department of Health’s health values for drinking water. We oppose Section 108 (a) because it does not address the drinking water threat and underlying groundwater contamination. It also creates the expectation that permit discussions will not include addressing these significant issues if doing so increases the cost of running a demolition landfill. Section 108 (b) language requests the development of new sampling protocols and new rounds of groundwater sampling, which are duplicative of existing processes. We have shared language with counties on language changes necessary to 108 (b), and we will continue to work to address their concerns.
- **Wastewater effluent limitations for industrial permittees in Section 66.** Language very similar to this was passed by the Legislature last year but was later disapproved by an Administrative Law Judge. The agency was neutral on the 2017 language, which applied ‘regulatory certainty’ provisions to municipal facilities only. Section 66 expands on the 2017 language to include private, industrial facilities. The agency did not support including industrial facilities in 2017 and we still do not support their inclusion in 2018.

Because of the fiscal and policy concerns outlined above, I stand opposed to House File 3502 as outlined in the first engrossment.

Sincerely,



John Linc Stine
Commissioner

cc: The Honorable Dan Fabian, Assistant Majority Leader, Minnesota House of Representatives
The Honorable Rick Hansen, DFL-Lead, Minnesota House of Representatives
Erin Campbell, Governor Dayton’s Office
Stephanie Zawistowski, Governor Dayton’s Office
Anna Henderson, Governor Dayton’s Office

April 26, 2018

The Honorable Paul Gazelka
Senate Majority Leader
Minnesota Senate
3113 Minnesota Senate Building
St. Paul, MN 55155

The Honorable Thomas Bakk
Senate Minority Leader
Minnesota Senate
2221 Minnesota Senate Building
St. Paul, MN 55155

Dear Members of the Senate:

I write in regard to several provisions in Article 13 of Senate File 3656, the Senate Omnibus Supplemental Finance bill, which is before the Senate today.

On a positive note, I want to convey my thanks to committee chairs for their willingness to discuss issues relating to this bill. In addition, I appreciate that two small technical provisions from the Minnesota Pollution Control Agency's (MPCA) policy are included in the omnibus language.

Governor Dayton has said he will veto any bill that results in cuts to agency budgets. Senate File 3656 cuts the MPCA's general fund appropriation by \$700,000 in FY2019 and by \$1.4 million per biennium thereafter. It also contains new mandated spending of \$1 million in FY2019 and \$700,000 every fiscal year thereafter from the Environmental Fund without providing new resources to that Fund. These new requirements will push the Environmental Fund's bottom line perilously close to zero with resulting fiscal instability at the agency. MPCA's budget changes, along with others in this bill, are being made to support legislation that shift dollars to provide more compensation for lottery retailers, something the Minnesota Lottery testified against.

The following policy items are among the most problematic parts of SF 3656:

- **Volkswagen Settlement language in Article 13, Section 97 (p. 181).** The court settlement allows states to use up to 15% on administrative costs. I have committed to keep administrative costs under 10%. Limiting our costs to 3% eliminates the flexibility we need on the front end to get the word out, help people apply for funds, process the applications, and follow-up afterwards. So this language will slow down the rate we get this money out the door. Section 97 has the unintended consequence of putting small businesses and school districts at a disadvantage, because we will not be able to provide the level of technical assistance they may require. Finally, Section 97 requires us to spend taxpayer money in order to process the VW penalty funds. In effect, this bill requires taxpayers to bear the brunt of "making right" the things that a polluter, in this case Volkswagen, did wrong.
- **Air quality standards and rulemaking requirements in Article 13, Section 78 (p. 167).** This language was not introduced as a bill or vetted through the committee process, but was an amendment in committee last week. Under Section 78, the agency would be forced to take a step backward in setting air quality standards. That's because we would be forced to abandon our current process of long-term discussion and planning with permittees around the impact of business expansions and options for managing those expansions vis a vis air quality standards. Our current process is collaborative and preventive, whereas Section 78 sets up an "everyone

for themselves” process that allows for fewer options for prevention. As you know, preventing pollution is always cheaper than cleaning it up.

- **“Prove the negative” provisions in Article 13, Section 78 (p. 170).** This language requires the agency to justify a new air quality standard (or, depending on interpretation, all standards) by documenting how federal law is inadequate to protect public health and the environment. Governor Dayton has rejected language similar to this before. Adding this extra administrative process hampers the state’s ability to act in cases where the federal government has not acted on issues critical to the state. It is also a waste of taxpayer dollars.
- **Exemptions for lining sugar beet storage pits in Article 13, Section 64 (p.159).** Added as an amendment in committee last week, this language was not vetted through the committee process. It would exempt remote sedimentation ponds for sugar beets from having to be lined. Sugar beet waste is more than just beets, dirt, and water. Like any other organic thing, when sugar beets disintegrate in water, contamination is created. Our data show that runoff from decomposing sugar beets can be 50 to 100 times stronger than municipal sewage in terms of biological oxygen demand. This high-strength waste needs to be properly managed. Unlined sedimentation ponds could create a direct pathway to groundwater. This bill puts our groundwater resources at an unacceptable level of risk.
- **Wastewater effluent limitations for industrial permittees in Article 13, Section 66 (p.161).** Language very similar to this was passed by the Legislature last year but was later disapproved by an Administrative Law Judge. The agency was neutral on the 2017 language, which applied ‘regulatory certainty’ provisions to municipal facilities only. Section 66 expands on the 2017 language to include private, industrial facilities. The agency did not support including industrial facilities in 2017 and we still do not support their inclusion in 2018.

The above fiscal and policy issues are significant problems for the agency, and because of them I stand opposed to Senate File 3656.

Sincerely,



John Linc Stine
Commissioner

cc: The Honorable Bill Ingebrigtsen, Assistant Majority Leader, Minnesota Senate
The Honorable David Tomassoni, Ranking Minority Member, Minnesota Senate
Erin Campbell, Governor Dayton’s Office
Stephanie Zawistowski, Governor Dayton’s Office
Anna Henderson, Governor Dayton’s Office



April 30, 2018

Representative Paul Torkelson
Chair, Transportation Finance Committee
Minnesota House of Representatives
100 Rev. Dr. Martin Luther King Jr. Blvd.
Saint Paul, MN 55155

Senator Scott Newman
Chair, Transportation Committee
Minnesota Senate
95 University Ave W
Saint Paul, MN 55155

Chairs Torkelson and Newman,

Please find attached the first MNLARS Steering Committee report, as mandated by Minnesota Laws 2018, Chapter 101.

This letter is to affirm that the statements submitted to the committee in this document are complete and truthful to the best of our knowledge

Please let us know if you have questions related to this report or would like any additional information.

Sincerely,

A handwritten signature in black ink, appearing to read 'Johanna Clyborne'.

Johanna Clyborne
Commissioner and State Chief Information Officer
Minnesota IT Services

A handwritten signature in black ink, appearing to read 'Ramona L. Dohman'.

Ramona L. Dohman
Commissioner
Minnesota Department of Public Safety

April 27, 2018

The Honorable Jim Knoblach, Chair
Ways and Means Committee
453 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
Saint Paul, MN 55155

Dear Chairman Knoblach,

I write to provide the Department of Commerce's comments on the first engrossment of HF4289, the Omnibus Jobs and Energy Bill.

First, the Department is disappointed the bill does not include the Governor's budget recommendation to remove the sunset of the Utility Grid Assessment. This \$500,000 assessment on utilities funds Commerce's work to avoid power disruptions in the state including brownouts, blackouts and sustained service disruptions in the event of disasters or extreme weather events. This budget item also ensures Minnesota is represented in critical regional and national grid reliability conversations. Minnesota's grid reliability work will end on June 30, 2018 without action by the Legislature. To ensure the reliability of the state's electric system into the future, I ask the Committee to remove the sunset for this assessment in Minn. Stat. 216B.62, subdivision 3b and include this funding in the bill.

Second, Article 1, Section 1 caps the amount of money Xcel Energy must transfer to the Renewable Development Account. In so doing, Minnesota would not only be going back on the 1994 nuclear waste storage agreement, but also forgoing part of its leadership position on job creation and economic development from investments in clean energy. This cap restricts funding for the development and deployment of renewable energy technology projects in Minnesota – the original intent of the Renewable Development Fund.

Third, Article 1, Section 4 directs the Department of Commerce to administer three new grant programs for a Local Government Emerald Ash Borer Removal, Energy Storage for Healthcare Facilities and Residential Biomass Heating Systems. The bill, however, does not provide sufficient resources to the Department to administer and oversee these grant programs to ensure the responsible distribution of these funds. I ask the Committee to provide the necessary resources to administer all grant programs.

Fourth, Article 3, Section 4 relocates the Public Utilities Commission (PUC) offices from St. Paul to Virginia, Minnesota. The Commerce Department is required to develop the public record, provide technical resources for energy policy planning, and conduct thorough environmental impact analysis for the PUC. This proposal would significantly increase costs to the Department and limit our ability to provide effective and efficient services to the public and the PUC. The Commerce Department opposes this proposal.

The Honorable Jim Knoblach

April 27, 2018

Page Two

Fifth, Article 3, Section 5 contains language from HF 3243, the Pre-Paid Pension Bill that the Commerce Department opposes in its current form. The Department shares the goal of ensuring that pre-paid pension assets are treated uniformly for all utilities and the Department has provided model language that would allow prepaid pension assets to be included in the rate base without reducing the authority of the PUC. Unfortunately, this bill has not been amended to include this language and therefore, the Department opposes this bill. In addition, the pre-paid pension language is currently traveling as a stand-alone bill, HF 3243, and is on the House Floor. Therefore, I ask the Committee to remove this language from the omnibus bill.

Sixth, Article 3, Section 8 requires the Public Utilities Commission (PUC) to predetermine the prudence of future investments in Xcel's nuclear power plants, which inappropriately shifts risks from the company's shareholders to its ratepayers. Any decision about whether to continue operating Xcel's nuclear plants should be made after a thorough review of the projected capital and operating costs of those plants and comparable alternatives. This will occur in February 2019 during the PUC's review of Xcel's next Integrated Resource Plan (IRP). Once a decision is made in Xcel's IRP about whether and how long to operate Xcel's plants, then a schedule of related investments can be approved by the PUC. In this way, unnecessary investments are avoided and both ratepayer and shareholder interests are protected. The Department opposes the language in its current form.

Seventh, Article 3, Section 15 includes new language related to wind energy, which the Department of Commerce continues to review and work with stakeholders to understand the intended outcomes they are trying to achieve.

Eight, Article 4, Section 1 requires legislative approval on any proposed rule relating to construction codes that would increase the cost of residential construction or remodeling by \$1,000 or more. The Department opposes this requirement as it would inhibit future energy efficiency growth and hinder the creation and use of new energy technologies.

Thank you for considering Commerce's concerns to HF 4289. I hope this information is helpful to the members of the Ways and Means Committee and I strongly urge the Committee to take these considerations into account as the bill moves forward.

Sincerely,



Jessica Looman
Commissioner

cc: Members of House Ways and Means Committee

April 27, 2018

The Honorable Jim Knoblach, Chair
Ways and Means Committee
Minnesota House of Representatives
453 State Office Building
100 Rev. Dr. Martin Luther King Jr. Boulevard
St. Paul, MN 55155

The Honorable Lyndon Carlson Sr., DFL-Lead
Ways and Means Committee
Minnesota House of Representatives
283 State Office Building
100 Rev. Dr. Martin Luther King Jr. Boulevard
St. Paul, MN 55155

Dear Representative Knoblach and Representative Carlson:

I write in regard to House File 4289 the Omnibus Employment, Economic Development and Energy bill, which is before the House Ways and Means Committee on Friday, April 27. I am strongly opposed to a \$300,000 general fund appropriation in this bill for three key reasons:

- 1) It sets up a system of unequal access to the regulatory and permitting process,
- 2) It creates delays in the permitting process, and
- 3) It adds a redundant step to the stakeholder input process for rulemaking and permitting.

First, this appropriation and language create unintended consequences around fairness and special access that could create legal exposure. Currently, citizens and stakeholder groups that provide their input to the agency do so without the financial support of the taxpayers. HF 4289 would change that, by funding the participation of the Minnesota Environmental Science and Economic Review Board (MESERB) in existing public processes. Because MESERB is *only one among many* stakeholders that have a strong interest in MPCA's work, this appropriation creates a fairness issue. Many other joint powers boards like MESERB regularly comment on our work (see list below). Providing public funds for review by one specific stakeholder can be perceived as favoring one viewpoint over others. The language on 6.15 – 6.25 directs MESERB to provide input and reports to both the agency and the legislature separately from the process for everyone else to comment on our work. This is preferential treatment that will confuse the public record and could potentially result in legal challenges that both prolong the administrative process and result in costly litigation.

Second, the new "administrative hoops" funded with this appropriation will serve only to slow down the MPCA's permitting work. By mandating another layer of review, this appropriation will slow down a process that many stakeholders already believe takes too long – at a time when we are working hard to streamline our services and improve efficiencies. In 2011 Governor Dayton set a 150-day deadline for permitting, and we are meeting that goal 95% percent of the time. Instead of adding bureaucratic layers that take more time, it would be more efficient to spend scarce public dollars to speed up our work, for example getting more data and permitting services online.

Finally, this appropriation and language sets up a new layer of review in the regulatory and permitting process for one stakeholder group, in duplication of current law and practice. Chapter 14, the administrative procedures act, has a robust rulemaking process with multiple ways that the public and stakeholders can be engaged in examining MPCA's regulatory work. With respect to permitting, a

Representative Knoblach
Representative Carlson
April 27, 2018
Page 2

robust public notice and comment process, along with contested case hearing and judicial review provisions in Minnesota statutes and rules provide multiple opportunities for stakeholders to participate in the permitting process. We get hundreds to thousands of public comments each year on our standards and permits. We respond to every single one of these, and we many times have changed our work in light of public input. Last year, we added yet another review process for water quality standards through a commissioner's order for peer review of our scientific and technical work. The new stakeholder review in HF 4289 duplicates an already strong review process and therefore is redundant and unnecessary.

For these reasons, I oppose this bill and urge you to remove this appropriation and language.

Sincerely,

A handwritten signature in black ink that reads "John L. Stine". The signature is written in a cursive, slightly slanted style.

John Linc Stine
Commissioner

Attachment

cc: The Honorable Dan Fabian, Assistant Majority Leader, Minnesota House of Representatives
The Honorable Rick Hansen, DFL-Lead, Minnesota House of Representatives
Erin Campbell, Governor Dayton's Office
Stephanie Zawistowski, Governor Dayton's Office
Anna Henderson, Governor Dayton's Office
Commissioner Jessica Looman, Minnesota Department of Commerce

Other Joint Powers Boards that comment on MPCA work:

Mississippi Headwaters Board

Northern Itasca Joint Powers Board

Crow Wing County Joint Powers Board

Vermillion River Watershed Joint Powers Board

Whitewater River Watershed Joint Powers board

Greater Blue Earth Basin Joint Powers Board

Southeast Minnesota Water Resources Board

Upper Mississippi Drinking Water Joint Powers Board

Area 2 Joint Powers Board



April 18, 2018

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

Dear Senator Ingebrigtsen;

Thank you for the opportunity to provide comments on Senate File 3141 A13, the Omnibus Environment and Natural Resources Budget bill.

We appreciate the many important conversations we have had throughout this session about environment and natural resources issues. This bill contains several provisions that improve the important work of locally-led conservation. Specifically:

- **Improvements to the Clean Water Legacy Act (Chapter 114D) and local water management programs (Chapter 103B) [SF3647]**
This language supports local action and increases the pace of progress for clean water while continuing to assure accountability for the state's investment in local conservation work. It better aligns data, analysis, planning, and implementation to achieve coordinated watershed management.
- **Accelerating Drainage System Acquisition of Buffer Strips and Alternative Practices [SF3410]**
This language, based on the consensus recommendations of the stakeholder Drainage Work Group, provides Drainage Authorities and landowners with efficiencies and flexibility to install buffers as part of public drainage system work. We will continue to work with the committee and stakeholders to achieve consensus on language adjustments as needed.
- **Transfer of duties of the Ramsey Conservation District [SF3411]**
This language ensures that the citizens of Ramsey County experience no disruption in conservation services with the discontinuation of the District and transition of programs to the County.

While we appreciate the inclusion of these important provisions, we have concerns with two aspects of the Omnibus bill:

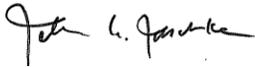
- **Buffer Law Provisions**
Local governments have been working to help landowners implement the buffer law and that work shows in the high compliance rate for public waters and the preliminary compliance rate for public ditches. Flexibility built into the law provides authority to local governments to achieve compliance and determine an enforcement schedule.

- **Operational Adjustment**

The bill does not include the Governor's Supplemental Budget recommendations to cover GO bond-eligible costs related to BWSR's bonding projects, unanticipated rent increases, and one-time retirement payouts.

We look forward to working with you on the provisions of your bill in the weeks ahead. We appreciate the committee's work leading up to this bill and the inclusion of provisions that will give our local government partners more opportunities to accomplish targeted conservation work in Minnesota.

Sincerely,



John Jaschke
Executive Director
Board of Water and Soil Resources

April 24, 2018

The Honorable Paul Torkelson
Chair, Transportation Finance
381 State Office Building
St. Paul, Minnesota 55155-1206

Dear Chair Torkelson:

I would like to offer my perspective on House File 4160, the House omnibus transportation bill.

Thank you for including several MnDOT policy provisions in the bill. We do appreciate the inclusion of funding for the facilities program and the changes for airport zoning. We have been working on the zoning bill for a few years and are happy to see it finally making some progress.

Unfortunately, I am disappointed no funding is provided for replacing two state planes or for tribal relations training. As you know both of our planes are quite old (35 and 23 years) and are more frequently out of service for repairs.

There are 2 earmarks for studies in the bill, for \$500,000 each. Both are an inefficient use of trunk highway funds. The department opposes earmarks for specific highway projects, even for studies. The study on I-94 is unnecessary – we already know a lot about what is going on in this corridor, such as issues with traffic volumes, pavement condition, safety problems and bridge clearances. We constantly hear how the department needs to be efficient, but every year we are required to do new studies that provide little to no value but cost millions of dollars.

The study for an interchange at I-35 and County Road 9 in Rice County is primarily to help solve issues on the local road network and does not have a trunk highway benefit. Studies of this nature are paid for with local funds and it is not appropriate to use trunk highway funds for this purpose.

The requirement in the bill to add lanes as part of an upcoming resurfacing construction project is an earmark to add lanes to I-94 from Clearwater to Monticello. These decisions are better left to the engineers who are working on the project. If this option proves to be the best value we will build it, and if not then it is not the best use of limited trunk highway resources. There are other sections of I-94 where adding lanes is a higher priority, such as east of Monticello where the traffic volume is significantly higher (70,000 vs. 40,000 vehicles per day). The highest hourly traffic volume on this stretch is exceeded over 1,000 hours a year on Highway 169 in the metro.

Negotiating with BNSF over changes in Northstar service cannot be done at no cost. The requirement to begin negotiations with BNSF about extending Northstar service to St. Cloud will require at least some staff time, engineering, evaluation of some service modeling and legal review. If this were a serious proposal it would be funded – as the Governor proposed.

The \$145 million in trunk highway bonding for Corridors of Commerce and \$75 million for rail grade separations is not the highest value use for limited trunk highway bonding capacity. MnDOT continues to be unable to fully fund preservation of what already exists and this is yet more money targeted for projects that don't merit investment compared to other needs on the system.

The bill requires prioritization of a trunk highway rail grade separation project in Glenwood. There are other trunk highway rail grade separation projects that are a higher priority, and those projects should be constructed before the project in Glenwood is considered.

There are several major unfunded projects that need to be undertaken in the near future that because of their size will probably require use of trunk highway bonds. Some examples are I-94 from St. Paul to Minneapolis at \$600M, the Twin Ports interchange project in Duluth at \$193M and the Blatnik Bridge at \$300M. The Dunwoody bridges, Robert Street bridge, I-35/Grand Avenue in Duluth, and I-694 over the Mississippi are expected to cost about \$100M each. These projects must be included in any plans for additional commitment of trunk highway funds and trunk highway bonding.

The department has safety concerns about the requirement for motorists to yield to on-track train equipment. Vehicles on the roadway expect a crossing to with lights and gates to activate when there is a need to stop at rail road tracks. The configurations in this bill may not do that. This is a serious safety hazard for trunk highway rail grade crossings. At a minimum, language should be added to the bill requiring the operator to exercise due care when using equipment known not to activate railroad warning devices.

The department is evaluating a provision in the bill that allows trucks carrying sugar beets to discharge liquid on roadways. This may be a safety and maintenance concern. The liquid can leave a syrupy substance on roadways which gets on cars, and there have been complaints from people about this occurring.

There are still some concerns related to the provisions on the freight rail economic development program. The bill requires MnDOT to implement the program and begin taking applications by January 1, 2019. It will require a great deal of effort to establish the program, so the department recommends extending this time by several months.

The bill requires ongoing consultation on the project selection process, evaluation criteria, timeliness of the awards and adequacy of funding in the FRED provisions. This could pose a significant burden on timing and resources. MnDOT suggests scaling back some of the consultation criteria or making the consultation optional instead of mandatory.

The bill limits total state funding for FRED grants to 85 percent. While local matches are important, it may be difficult for some applicants to come up with a funding match. Instead, MnDOT recommends allowing for prioritization of projects with a local match instead requiring a local match.

Finally, the FRED provision prohibits engineering standards or specifications more restrictive than federal regulations. MnDOT would like to make sure state statutes and rules still apply to any track or structure constructed by this program.

I appreciate the additional funding for trunk highway construction from the general fund. Though I wish it was more substantial. Despite the additional funding provided by the legislature this year and last, we continue to fall behind in our efforts to adequately preserve the existing trunk highway system, let alone adequately address the need for investments in new infrastructure.

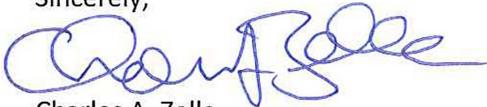
Passing an amendment to constitutionally dedicate general fund revenues is a welcome signal that the legislature understands the need for additional, dedicated funding. However, the amendment does not include additional funding for transit which is a regrettable oversight.

Constitutionally dedicating funds takes flexibility away from future legislatures to address revenue shortfalls, unexpected events, or additional policy challenges. If the constitutional change were in effect today, we would be looking at about a \$189M general fund deficit, instead of a surplus.

Finally, the resources provided by the amendment are inadequate – all additional revenue from a constitutional amendment would still be less than half what is needed for the trunk highway system.

Thank you for the opportunity to provide comments on House File 4160, the House omnibus transportation bill. Department staff are ready to work with you to address these concerns.

Sincerely,



Charles A. Zelle
Commissioner

Minnesota Department of Transportation

April 30, 2018

The Honorable Greg Davids
Chair, House Taxes Committee
585 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
Saint Paul, Minnesota 55155

Dear Chair Davids:

I write to express concerns about HF 4385, the second engrossment, and its impact on Minnesota taxpayers and the state's general fund.

We appreciate that the bill as amended includes a number of items with which the Governor agrees, including:

- Moving to "adjusted gross income" for individuals while keeping "federal taxable income" for corporations
- Fully conforming to the 179 expensing provision in the 2017 Federal Tax Law
- The treatment of Bonus Depreciation
- Extending the Angel Tax Credit for one year
- Conforming to domestic income provisions of the 2017 Federal Tax Law

We are also pleased that the bill moves the Senior Property Tax Deferral application date. However, we believe we can provide this relief to senior citizens sooner than the bill allows. We believe that we could provide this relief for taxes payable in 2019, for applications in 2018 as included in the Governor's bill.

We also thank the committee for including many provisions from the department's policy and technical bills, including moving to more inclusive language for our tax code, updating certifications, clarifying definitions, and providing clear guidance for taxpayers and tax administrators.

The House Tax Bill increases business tax breaks

Unfortunately, like the Federal Tax Law passed last year, HF 4385, the second engrossment, favors businesses over working Minnesota families. While the bill changes income tax rates for both individuals and corporations, the rate cut for corporations (7.6%) is nearly double that for individuals (4.3%).

The bill includes a corporate tax rate cut of over 7.6% costing \$60 million per year when fully phased in, the repeal of the corporate AMT costing \$15 million when fully phased in, and Section 179 expensing with a first full year cost of \$85 million.

These benefits are in addition to the 40% tax rate cut corporations already received from the 2017 Federal Tax Law.

This bill as amended shields multi-national corporations with foreign subsidiaries rather than focusing on Minnesota families. It provides a 100% subtraction for Global Intangible Low Tax Income (GILTI) of individuals and corporations. In addition, the bill decouples 100% from Foreign Derived Intangible Income (FDII) deductions for both individuals and corporations. The introduction of GILTI at the federal level was designed to curb the erosion of the U.S. tax base by multi-national corporations. For C-corporations, the GILTI provisions operate as a minimum tax that is intended to make sure U.S. corporations and their foreign subsidiaries pay corporate tax.

Although the bill as amended does bring to Minnesota some of its share of repatriated income, it first allows the federal preferred rate reduction, as well as the Minnesota Dividend Received Deduction (DRD). The Governor's approach – following established Minnesota policy – allows the DRD, but not the federal preferred rate reduction. Allowing corporations to claim both of these preferential treatments for this income reduces the revenue apportioned to Minnesota even further and treats it differently than other dividend income.

Little targeted tax relief for low and middle-income families

While the House bill provides significant benefits for corporations, Minnesota's low and middle-income families do not fare as well. Those with income less than \$37,851 (married) and \$25,891 (single) will see no rate decrease. The rate cut for the second tier will help wealthier families more than middle-income families. When fully phased in for married joint filers, those earning \$40,000 will receive a \$6 tax cut, those earning \$80,000 per year will receive a \$126 tax cut, and those earning \$250,000 will receive a \$338 tax cut.

In other words, Minnesotans earning \$250,000 would receive income tax rate cuts that are larger both in amount and a higher percentage of their income than low and middle-income Minnesotans. Minnesotans earning the state's median income of \$65,000 would receive an \$82 tax cut – that is \$256 less than the cut for those earning \$250,000. The \$82 tax cut is less than two tenths of one percent of the income for that median income family.

The Governor's approach would help low and middle-income families with the expansion of the Working Family Credit and a new Personal and Dependent Credit. The Governor's Working Family Credit proposal would expand the credit to filers who are 21 years old and would allow families with three or more children access to a larger credit and a higher income range. About 329,000 Minnesotans would see an average tax reduction of \$160.

The Governor's new Personal and Dependent credit is a non-refundable \$60 per person tax credit for individuals earning less than \$90,000 and married tax filers earning less than \$180,000 per year. About 2 million Minnesotans would get an average tax cut of \$115. For example, a married couple with two children earning the state's median income of \$65,000 would see a tax credit of \$240.

The House bill reduces and removes itemized deductions

Approximately 900,000 Minnesotans claim itemized deductions each year. Governor Dayton's proposal preserves these important benefits. However, just as the 2017 Federal Tax Law did, HF 4385 as amended reduces or removes many deductions. For many working Minnesotans the House's plan to increase the standard deduction by \$1,000 will not make up for the loss of those itemized deductions, as it will translate to approximately \$65 for a family.

For example, the Governor's proposal would protect a deduction for employees who have expenses related to their job that are not reimbursed by their employer, production of income, and tax preparation fees. These deductions help cut the costs many Minnesotans incur just to perform their job – including mileage between work sites, meals and housing, safety equipment, and work clothes – and can save Minnesotans, hundreds, or even thousands of dollars that many workers depend on as critical elements of their annual incomes. Under current state law, they can be deducted if they exceed 2% of income. About 111,000 Minnesotans benefit from the employee expenses deduction alone, saving an average \$419 annually.

As noted in the Ways and Means committee, under the House plan, up to 148,000 Minnesotans will pay more in taxes as they lose deductions for work-related expenses, and other important tax breaks.

The list of expenses that taxpayers can deduct which are eliminated in the House bill is long and includes:

- Tax preparation expenses
- Business bad debt of an employee
- Business liability insurance premiums
- Damages paid to a former employer for breach of an employment contract
- Depreciation on a computer a taxpayer's employer requires them to use in their work
- Dues to a chamber of commerce if membership helps the taxpayer perform their job
- Dues to professional societies
- Home office or part of a taxpayer's home used regularly and exclusively in the taxpayer's work
- Job search expenses in the taxpayer's present occupation
- Laboratory breakage fees
- Legal fees related to the taxpayer's job
- Licenses and regulatory fees
- Malpractice insurance premiums
- Medical examinations required by an employer
- Occupational taxes
- Passport fees for a business trip
- Repayment of an income aid payment received under an employer's plan
- Research expenses of a college professor
- Rural mail carriers' vehicle expenses
- Subscriptions to professional journals and trade magazines related to the taxpayer's work
- Tools and supplies used in the taxpayer's work

- Purchase of travel, transportation, meals, entertainment, gifts, and local lodging related to the taxpayer's work
- Union dues and expenses
- Work clothes and uniforms if required and not suitable for everyday use
- Work-related education
- Repayments of Social Security benefits
- The share of deductible investment expenses from pass-through entities
- Appraisal fees for a casualty loss or charitable contribution
- Casualty and theft losses from property used in performing services as an employee
- Clerical help and office rent in caring for investments
- Depreciation on home computers used for investments
- Excess deductions (including administrative expenses) allowed to a beneficiary on termination of an estate or trust
- Fees to collect interest and dividends
- Hobby expenses, but generally not more than hobby income
- Indirect miscellaneous deductions from pass-through entities
- Investment fees and expenses
- Loss on deposits in an insolvent or bankrupt financial institution
- Loss on traditional IRAs or Roth IRAs, when all amounts have been distributed
- Repayments of income
- Safe deposit box rental fees, except for storing jewelry and other personal effects
- Service charges on dividend reinvestment plans
- Trustee's fees for an IRA, if separately billed and paid
- Educator expenses

There are still other deductions that the House plan would remove or reduce. For example, many people move to or within Minnesota each year. Significant expenses come with such a big transition. The Governor's proposal would protect the moving expenses deduction to make it a less significant expense. About 61,000 Minnesotans benefit from this deduction with an average savings of \$150. The House bill disallows this tax benefit.

There are other deductions that do not affect most Minnesotans, but make a big difference for families that do use them. One of the most essential examples of this is the casualty loss deduction. A family that suffers a major loss, such as a house fire, will still be able to deduct those losses under the Governor's proposal. Only about 800 Minnesotans use the casualty loss deduction each year, but it is a very significant expense for them, with an average \$16,000 benefit. The House bill will only allow this deduction in the event of a federally declared disaster.

This bill as amended also limits the property tax deduction for the amount of tax paid over \$30,000 per year. In addition, it limits the mortgage interest deduction, disallows the Bicycle Commuting Expense Exclusion, and the Home Equity Loan Deduction.

House bill excludes Governor Dayton's proposed benefits for Minnesota families

There are a number of items in the Governor's bill that are not included in the House bill that would help low and middle income families, including the expansion of the Working Family Credit and a new Personal and Dependent Credit. The Governor's Working Family Credit proposal would expand the credit to filers who are 21 years old and would allow families with three or more children access to a larger credit and a higher income range.

The Governor proposed a new, non-refundable \$60 per person tax credit for individuals earning less than \$90,000 and married tax filers earning less than \$180,000 per year.

This bill as amended does not include items from the Governor's bill including common sense provisions that would make our business taxes fairer. These provisions include limitations on the type of software that qualifies for the data center exemption, tobacco tax changes to improve public health and to cut down on tax evasion, and the Sustainable Forest Incentive Act Private Lands Timber Harvest Credit.

This bill as amended also modifies indexing. The House approach moves the indexing of brackets, and various tax attributes to chained CPI except for the property tax refund. This will mean that brackets will increase more slowly as well as increase taxes on individuals. In addition, because the other credits will increase more slowly, tax credits and other benefits will be less beneficial over time, also raising their taxes. These changes may seem technical but they will have real impacts on Minnesotans by raising their taxes over time compared to what they would pay under current law.

Impacts on Department of Revenue's work with customers

Another troubling aspect of this bill as amended is the provision that would have the Department of Revenue provide a notice to taxpayers on the loss of benefits found in this bill. Putting the burden on the Department of Revenue to develop and implement a plan to notify all property owners in Minnesota is outside our normal capacity. In addition, having county administrators share property owner information with the state is a duplication of effort and not necessary.

This bill as amended also takes funds from the Department of Revenue Service and Recovery Fund, which will impact our ability to increase any staffing or support funding for the local governments helping to administer local option sales taxes. Last year the number of local option sales taxes increased dramatically as a result of changes in the 2017 omnibus tax bill. This past year alone we added 17 local option sales taxes because of those changes, including one water and sewer district. The number of local option sales taxes are increasing and local governments are expecting quicker turnaround times in activating those taxes. By removing this fund, the bill makes the department less able to accommodate local governments. This is compounded by a nearly \$4 million annual cut to the agency in the House State Government Finance bill that will reduce our services to taxpayers.

Repeal of the Political Contribution Refund

We are concerned with the elimination of the Political Contribution Refund (PCR), which has been a hallmark of Minnesota's campaign finance system for some time. The PCR provides an opportunity for more people to participate in our campaign finance system and encourages small dollar contributions.

Treatment of local governments

There are several troubling items within this bill as amended concerning the treatment of local governments.

First, the repeal of Minneapolis Library Aid is concerning – the state made this commitment and should keep it.

Next, while we are glad to see that this bill as amended removes a provision in the division report that would have reduced local government aid based on decisions made by local governments on how to serve their residents, including immigrants, there are provisions remaining that prohibit locally elected officials from making decisions on behalf of their constituents. This includes prohibiting any governmental unit from even studying the feasibility of a rail project between Rochester and the metro area, and a provision regarding fees on food containers.

The bill as amended also includes requiring elections on city, county, and school district referenda questions related to property taxes, debt, and spending be limited to one day per year as well as proposing reverse referendum policies. These proposals limit the flexibility of locally elected officials to meet the needs of their constituents. These proposals were rejected last year and we continue to have concerns about them.

In addition, we are concerned about the micromanagement of the local Hennepin County Sales Tax. If the legislature wants to fund a specific project in Hennepin County, it can do so, rather than tying a county's hands on the use of its own funds. This provision is an example of the many projects that demonstrate the need for a long-term solution for sustainable transportation financing that does not compete with the other general fund needs.

Fiscal responsibility

This bill as amended does not reflect the fiscal sustainability that Minnesota needs and would create a hole in the state's budget in the future.

The House bill does not show the full costs of the provisions in the current biennium. Instead, it phases in rate changes for individuals and corporations over time, obscuring their true costs until the last year of the 2020-21 biennium. The cost of the corporate and income tax rate cuts grow from \$130.6 million in the 2018-19 biennium to \$570 million in the 2022-23 biennium.

Minnesotans deserve transparency. If tax provisions are important enough to be included in the final bill, the full cost should be shown in the first year so that Minnesotans can understand who is benefited and by how much.

We also note that the bill as amended pre-pays about \$14 million in local government aid. We anticipate this is needed to make the second biennium of the bill balance.

The Governor is committed to long-term fiscal responsibility, which is why he has proposed undoing three changes in last year's tax bill: the State General Levy Inflator, the Cigarette Inflator, and the \$3 million Estate Tax exemption.

In addition, the bill as amended would reduce the sales tax rate based on an unissued federal Supreme Court decision, that will likely not be issued until June. Starting 15 months after the state begins collecting sales tax on marketplace providers and/or other remote sellers, the Commissioner of Revenue is instructed to reduce the general sales tax and the legacy sales tax rates by a revenue neutral amount to reflect increased sales collections from these remote sales.

The House bill anticipates what the Supreme Court may decide on the Wayfair decision. We do not know if the United States Supreme Court will cleanly overturn Quill, uphold Quill and leave it to Congress, or create a path in between. Legislation attempting to anticipate what the Supreme Court might do creates a high level of fiscal uncertainty.

The department is closely monitoring the Wayfair vs. South Dakota case at the Supreme Court. Once a decision is made public, we will provide information to Minnesota taxpayers about how that decision will be administered. At that time, the legislature will have concrete information – not speculation – upon which to base a decision about appropriate sales tax rates.

In addition, the bill as amended takes money from the stadium reserve account based on forecasted amounts rather than actual receipts. We should not deplete that fund until we know the actual revenue flowing into that account and, only then should we make changes.

Finally, as we know more about the long-term costs of the bill as amended, they must be balanced against the revenue sources in the bill. For example, deemed repatriation revenue will end after eight years but it seems to be built into the revenue stream to fund permanent rate changes.

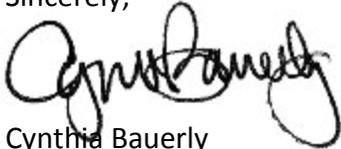
In addition, several provisions, such as the historic tax credit, shift the year in which the cost is realized and do not represent new revenue.

Governor Dayton has been very clear about his commitment to fiscal sustainability for the State of Minnesota. As he expressed in his April 9 letter to legislative leaders, the long-term fiscal stability of the state is his highest priority. The Governor has worked over the past seven years to restore the state's fiscal stability. He will not support any bill that threatens that stability.

Moving forward

We look forward to working with you as this bill moves forward. There are areas of agreement but we have a great deal more to do if we are to put low-income and working families first in a tax bill, while protecting the State's fiscal health.

Sincerely,



Cynthia Bauerly
Commissioner

CC: Representative Paul Marquart
DFL Lead, House Taxes

May 3, 2018

State Representative Jim Knoblach
Chair, House Ways and Means Committee
453 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd
Saint Paul, MN 55155

Dear Chair Knoblach,

I am writing to reaffirm the Department of Administration's (Admin) opposition to the provisions of S.F. 3656 as reflected in my testimony before the House State Government Committee on Tuesday April 17, and the letter provided to the committee on April 24.

S.F. 3656 proposes a \$1.243 million—or 10.5%—reduction to the agency's operating budget despite having a state budget surplus. Even more troubling, these proposed cuts have not been accompanied by any compelling budget or policy rationale. As outlined below, the proposed cuts directly and negatively impact services that individuals and businesses rely on, and that help make Minnesota one of the best run states in the country.

Admin Budget Cuts

Chief Judge Tammy Pust and I have provided you a separate letter outlining our concerns and opposition to the bill provisions that move the duties of the Data Practices Office from Admin to the Office of Administrative Hearings. The work of the Admin Data Practices Office is highly regarded, and no stakeholder group we are aware of is requesting or supporting this change. As such, this appears to be an unwarranted, extreme action.

Admin's Office of Continuous Improvement is a best practice for government agencies as well as businesses across the nation. Minnesota businesses with similar in-house programs include General Mills, Prime Therapeutics, Ecolab, and Wells Fargo. The office is a core part of Admin's mission to help state government work smarter and more efficiently. Proposing to eliminate funding for this office is entirely inconsistent with the committee's oft-stated desire for state government to efficiently use existing resources.

Chapter 4, 1st special session of 2017, the biennial State Government Finance bill directed that the State Historic Preservation Office be transferred from the Minnesota Historical Society to Admin. The goal of the Minnesota businesses and policy-makers who championed this change was to improve customer service and ensure executive accountability. S.F. 3656 would hamper Admin's ability to meet those goals by reversing the small appropriations approved just 10 months ago. That funding pays for transition costs and helps to make the process, outreach, education, and initial digitization improvements, identified as crucial by the legislative auditor earlier this year.

These budget cuts are untenable and have a dramatic negative impact on the services Minnesota businesses and residents rely on. The Department stands with the Governor in opposing these budget cuts.

Contingent Fee Changes

The change prohibiting the Attorney General from contracting for legal services on a contingent fee basis significantly impacts our ability to assert the state's subrogation rights against third parties in workers' compensation claims. The Attorney General's Office currently has two contingency-based contracts with two separate law firms that represent the state on workers' compensation subrogation cases. The attorneys agree to represent the state on all cases that we refer to them. The attorneys only receive payment if they are successful in obtaining a recovery for the state.

Chair Jim Knoblach
May 3, 2018
Page Two

In the last five fiscal years, the state has had subrogation recoveries on approximately 300 workers' compensation claims for a total recovery of \$2,075,558. The funds, less the contingency fees, are returned directly to state agencies to offset their workers' compensation costs. Third party actions are complex and legal representation is critical in protecting the financial interests of state government, even in cases where the state does not make a recovery.

Having the ability to assign cases to outside counsel on a contingency fee basis for workers' compensation subrogation is a financial benefit to the state and as such the Department is opposed to this provision.

Enterprise Budget Cuts & Policy Changes

The rulemaking provisions in this bill, will slow down the rate at which the department can respond to the needs of business, grantees and Minnesotans with this new bureaucratic process; we are opposed to these changes.

I join my cabinet colleagues in opposing the proposed \$9.65 million reduction to agencies to offset the needed funding for completing MNLARS work, as well as the major proposed changes in how centralized information technology services function in state government.

In addition, there are two changes to information technology that will have a significant negative impact on Admin. First, the requirement to dedicate 3.5% of operating budget to cyber security without an accompanying appropriation increase is effectively a budget cut to the agency and our customers. Second, the language requiring external contracts for certain IT projects will result in a 160% increase in workload for the Office of State Procurement. Making such a change without providing the operating funds necessary to perform that work is unsustainable as it would overwhelm the Request for Proposal and contract negotiation process.

None of the provisions included in this bill that effect the Department of Administration were brought forward by the Department. In fact none of the provisions that were brought forward by the Department even received a hearing let alone consideration for inclusion in this bill. The provisions outlined above will hurt Minnesotans. I urge you to reconsider this approach and instead engage with the department in a meaningful conversation about how to improve the services the department provides to Minnesotans and Minnesota businesses.

Thank you for your consideration.

Sincerely,



Matt Massman
Commissioner

cc: Representative Sarah Anderson
Representative Liz Olson
Erin Campbell

May 1, 2018

The Honorable Jim Knoblach
Chair, Ways and Means
453 State Office Building
St. Paul, Minnesota 55155

The Honorable Lyndon Carlson
DFL Lead, Ways and Means
283 State Office Building
St. Paul, Minnesota 55155

The Honorable Dan Fabian
Chair, Environment & Natural Resources
Policy and Finance
365 State Office Building
St. Paul, Minnesota 55155

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

The Honorable Kurt Daudt
Speaker of the House
463 State Office Building
St. Paul, Minnesota 55155

The Honorable Melissa Hortman
Minority Leader
267 State Office Building
St. Paul, Minnesota 55155

Dear Representatives Knoblach, Carlson, Fabian, Hansen, Daudt and Hortman:

As you know, the Department of Natural Resources (DNR) deals with a number of recurrent budget challenges, including fund deficits, increasing service demands, inflationary pressures, a lack of stable funding for certain operational needs, and the often urgent need to address emerging issues. While many of these issues were addressed in last year's biennial budget, the Governor's supplemental budget recommended several budget and policy changes to address urgent needs and emerging issues.

I appreciate the inclusion of a majority of these recommendations in the House Omnibus Bill (HF4099). Your supplemental budget proposal helps to fund priorities for mining research and provides general funds for Chronic Wasting Disease (CWD). Funding for mining research will ensure that we are able to continue this long-standing program and continue to identify solutions for efficient and effective environmental remediation. We additionally support the proposed increased funding for trails.

I, and my staff, have testified in committees with our various concerns; the purpose of this letter is to provide a summary. In addition to those listed below, I would like to echo concerns regarding State Government provisions in the bill that our sister agencies have commented on, including enterprise budget cuts, policy changes, and the new administrative rulemaking provisions.

Budget

Chronic Wasting Disease (CWD) – Article 3, Section 3

The current House appropriation would require that the DNR continue to utilize hunter fees from the Game and Fish Fund (GFF) for ongoing CWD response. While the House bill provides \$750,000 in general

funds for CWD response, the anticipated need, and the Governor's budget request, is for \$1,560,000 from the general fund. Absent this funding, and in order to ensure a full response to CWD, DNR would need to continue to use GFF dollars. In FY 2017, we spent over \$870,000 from the GFF on CWD response. We estimate we will spend close to \$1.4 million in FY 2018 of which over \$435,000 will be from the GFF. Our estimate for costs in FY 2019 remains at the Governor's requested amount of \$1,560,000.

CWD response is not a hunter responsibility, and the impacts of CWD go well beyond impacts to hunting. We believe that hunters should not be required to bear the costs of CWD disease response. In order to ensure an appropriate response to CWD under the House proposal, DNR would have to use GFF dollars for more than half of the estimated need for FY 2019. Continued use of GFF for CWD efforts will reduce efforts for deer management such as habitat management work, which are strongly supported by license buyers.

Forest Inventory – Article 1, Section 3

The House budget does not include the Governor's request for \$1 million for forest inventory work. Absent this funding, we will be compelled to renew our forest inventory on a 20 year cycle instead of the more beneficial cycle of 15 years. Forest inventory data is the primary dataset used in our Sustainable Timber Harvest analysis, and it has played a critical role in projecting timber volumes and forest conditions over time. The analysis was limited, however, due to the age of the data.

Discussions with the independent contractor who prepared the analysis and with stakeholders and industry representatives, all point to the need to improve forest inventory for ongoing management and future planning efforts. Reliance on inaccurate or old data increases the risk of over and under harvesting, reduces the ability to address high-risk timber and reduces our understanding of forest age and health conditions for wildlife habitat and biodiversity management. This increased risk will have a negative impact on the timber products industry and may limit our ability to attract industry to Minnesota. Outdated inventory puts wood-using industries at a greater risk for future economic impacts.

Snowmobile Account - Article 4, Section 4

The House bill requires 60 percent of all revenue collected in the Snowmobile Account to be expended on grant-in-aid programs. Currently the legislature appropriates funds from the snowmobile account and sets the amounts for the grant in aid program and DNR operations. We currently manage the program based on current appropriations, estimated annual revenue based on renewal trends and current needs across the state that may vary due to different snow conditions. The House proposal would require us to manage the program based on an unknown amount of revenue. Because we would need to manage the account spending based on a specified split of unknown funds versus managing the program based on needs, the language may have the unintended consequence of reduced trail grooming on state trails in Northern Minnesota in order to meet the 60/40 ratio.

Voter Registration – Article 4, Section 23

DNR supports the concept of providing information to DNR customers on voter registration. However, the current House proposal is overly prescriptive, and we are concerned about creating instability in the on-line licensing (i.e., ELS) system.

We appreciate the effort to find a source of funding outside of the Game and Fish Fund (GFF) to carry out this work. However, we don't support reducing and redirecting funds from previous appropriations for legal support costs. As a reminder, the ELS system and our hunting and fishing regulation books are paid for with GFF dollars, which have very narrow permissible uses. GFF expenditures are governed by Minnesota Statutes 97A.057 which states, "*Money accruing to the state from fees charged for hunting and angling licenses shall not be used for **any purposes** other than game and fish activities and related activities.*" In addition, DNR is obligated to comply with all Federal Aid in Wildlife Restoration Act and Fish Restoration Act sections which require that revenue from hunting and fishing licenses be: (1) *controlled by the State fish and wildlife agency; and (2) used only for administration of the state fish and wildlife agency, which includes **only the functions required to manage the agency and the fish and wildlife related resources** for which the agency has authority under state law.*

We recommend a new general fund appropriation to cover these costs or an option for a no-cost solution to provide this information, such as a link to the Secretary of State for voter information on the DNR website for hunting and fishing. We would like flexibility to work with our vendor and programming staff to find the most appropriate place to display the registration information.

POLICY

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

Hayes Lake State Park All-Terrain Vehicle Pilot Project – Article 4, Section 9

DNR has concerns about the House language pertaining to allowing ATVs in Hayes Lake State Park. We believe the Outdoor Recreation Act (ORA, 86A.05 Subd. 7) suggests that motorized recreation is most appropriate in State Forests, and DNR has been working to open more state forest campgrounds to Off-Highway Vehicle (OHV) ingress/egress. Under the ORA, state forests are meant to provide specialized outdoor recreation in a manner consistent with the primary purpose of the forest. State forest campgrounds offer the best access to OHV trails on 4.2 million acres of state forest and other public forest lands. We have current investment plans for certain state forest campgrounds to improve amenities to serve OHV needs.

The DNR supports motorized recreation and works closely with stakeholders like the All Terrain Vehicle Association of Minnesota (ATVAM) to provide great trails throughout Minnesota, mostly on state forest lands. We will continue to work with ATVAM and other motorized users on long-term strategies for expanding camping opportunities in state forests.

Transferring of Water Use Permits, Irrigation Test Wells, Management Plans – Article 4, Sections 39-41

DNR is concerned about the language in these three sections. First, the language conflicts with Minnesota's water law [Chapters 103A-103G] by implying western water rights, where water is owned as a property right that can be bought and sold. This contrasts sharply with Minnesota's regulated riparian system, where water is a public trust resource managed by the state for all citizens. A second concern is that conditions change over time, especially as groundwater use increases in an area. For example, an increase in the number of well interferences can occur with higher cumulative groundwater use. DNR must retain the ability to modify permits appropriately if this occurs. Requiring the automatic transfer of appropriation permits may mislead property buyers into believing that the permit is not subject to future modification.

In terms of paying for irrigation test wells, permit applicants are required by statute (MS 103G.287, subd.1(4)) to do this unless waived by the commissioner. This is consistent with the general practice of requiring applicants for a wide range of permit types to furnish the data needed to evaluate their application. If DNR were required to pay for a test well in the event we deny an irrigation waters appropriation permit, this would undermine the public's confidence in our permitting decisions. For context, out of the 5454 water appropriation applications received between 2010 and March 2018, DNR has only denied 12 (0.22%), showing that a permit denial is extraordinarily uncommon. However, the proposed language would call into question whether DNR issued many of the other 99 percent in order to avoid paying for test wells. We estimate an ongoing cost of approximately \$31,000 per year for installing and sealing the few wells that are denied.

Water Quality and Sustainability Account – Article 4, Sections 74-75

DNR shares the concerns that the Pollution Control Agency expressed in committee regarding the additions of Sections 74 and 75 to the bill. We are concerned that by reinterpreting the binding 3M settlement language, the legislation would create a new set of priorities for funding that would be in conflict with the settlement, and thus open the state to unnecessary legal challenge. The state's settlement with 3M, as written, provides ample assurance that the communities' water supply needs will be met.

Extends Sand Dunes State Forest Moratorium – Article 4, Section 95

The language in this section will delay the DNR from restoring wildlife habitat on Sand Dunes State Forest and Uncas Dunes Scientific and Natural Area including invasive species control and management. Further, it reduces our ability to manage for threatened and endangered species in Sand Dunes State Forest. Last,

this section inhibits our ability to implement the recently approved forest management plan, which was developed with extensive input from surrounding residents and other stakeholders.

Action to obtain access prohibited; Clearwater County – Article 4, Section 96

DNR is opposed to this section. The proposed legislation would have immediate as well as potential long-term negative impacts to the citizens of Minnesota who enjoy public land access. The legislation not only limits the state's ability to establish and maintain public access to Island Lake Wildlife Management Area (WMA), whose use the public has been enjoying since 1993, but it may also create a precedent for future challenges to public lands access. It also especially benefits certain individual(s) and is counter to the interests of the greater population of citizens of Minnesota. The precedent of legislating away the public's rights in order to benefit one person's private interests is of serious concern.

Recreational Trails; Environmental Review Rulemaking, Article 4, Section 99

As drafted, DNR has concerns with this section. The language uses the words "legally constructed route." This term is not defined and would require interpretation to develop a definition. This would prevent the use of the good-cause rulemaking exemption. In general the language would benefit from clarification. It also seems unnecessary given that the Environmental Quality Board (EQB) is currently going through rule making and is addressing this same mandatory category as directed from a previous legislative session.

The list of concerns outlined in this letter is not comprehensive, but rather contains those provisions of greatest concern to the DNR. I and my staff are available to answer any questions on these outlined concerns or any other parts of the bill. Thank you for your consideration.

Sincerely,



Tom Landwehr
Commissioner



Minnesota Department of Human Services
Acting Commissioner Chuck Johnson
Post Office Box 64998
St. Paul, Minnesota 55164-0998

VIA ELECTRONIC TRANSMISSION

May 1, 2018

The Honorable Sarah Anderson
State Office Building, Room 583
100 Rev. Dr. Martin Luther King Jr. Blvd.
Saint Paul, Minnesota 55155

The Honorable Mary Kiffmeyer
Minnesota Senate Bldg., Room 3103
95 University Avenue W.
Saint Paul, Minnesota 55155

RE: Data sharing with the Legislative Budget Office

Dear Senator Kiffmeyer and Representative Anderson,

I write to bring to your attention the Department of Human Services' concerns with the data sharing components of the Legislative Budget Office (LBO) changes included in SF3656, Article 1 and HF4099, Article 4. These concerns include the following:

1. Some of the data maintained by the Department of Human Services (DHS) and used to develop fiscal notes is subject to federal privacy laws that restrict sharing not public data. In cases where there is a federal law prohibiting the sharing of data we would not be permitted to provide the data to the LBO. and;
2. DHS will incur costs to prepare data prior to sharing it so that it can be understood and analyzed by the LBO. Those costs are not tracked.

First, both bills require that upon request, Departments must promptly supply the LBO with any data that, in the LBO Director's judgement, is relevant to legislation that is the subject of a fiscal note prepared by the Department. This includes data classified as not public under chapter 13 or other applicable law.

Our concern is that a number of our business areas develop fiscal note estimates using data that is prohibited from being shared by federal law. I offer the following technical assistance to address this concern.

Technical Assistance:

SF3656, Article 1, Section 7:

Page 8, Line 30 after "13.64" insert "or other applicable law, unless there are federal laws or regulations that prohibit the provision of the not public data for this purpose"

SF3656, Article 1, Section 7:

Page 14, Line 7 after “subdivision 4” insert “unless there are federal laws or regulations that prohibit the provision of the not public data for this purpose”

HF4099, Article 4, Section 11:

Page 233, Line 13 after “agency” insert “unless there are federal laws or regulations that prohibit the provision of the data for this purpose”

HF4099, Article 4, Section 35:

Page 233, Line 13 after “subdivision 4” insert “unless there are federal laws or regulations that prohibit the provision of the data for this purpose”

Second, in completing fiscal notes, DHS relies extensively on data containing information about a large number of human services programs related to eligibility, client enrollment, provider enrollment, payments, and program outcomes. Much of this data is not easily deciphered by persons who don't work directly with the programs. In order for the data that the Department shares with the LBO to be useful, staff will need to take additional steps to organize, prepare and summarize the data before it is submitted. This will require DHS to incur additional costs to share the data.

During the 2017 legislative session, DHS completed 250 fiscal notes. Sharing of data on this scale will have fiscal impacts on DHS which are not tracked in either bill. The department is in the process of determining the cost related to sharing data with the LBO and will provide you with that information as soon as possible.

Please feel free to contact me or Chris Orr with any questions you may have.

Sincerely,



Charles E. Johnson
Acting Commissioner

c.c. The Honorable Jim Knoblach
The Honorable Julie Rosen

May 2, 2018

The Honorable Jim Knoblach, Chair
Ways and Means Committee
453 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
Saint Paul, MN 55155

Dear Chairman Knoblach,

I write to provide the Department of Commerce's comments on the DE4099 amendment to SF 3656, the Omnibus Supplemental Finance Bill.

First, the Department is disappointed the bill does not include the Governor's budget recommendation to remove the sunset of the Utility Grid Assessment. This \$500,000 assessment on utilities funds Commerce's work to avoid power disruptions in the state including brownouts, blackouts and sustained service disruptions in the event of disasters or extreme weather events. This budget item also ensures Minnesota is represented in critical regional and national grid reliability conversations. Minnesota's grid reliability work will end on June 30, 2018 without action by the Legislature. To ensure the reliability of the state's electric system into the future, the sunset for this assessment in Minn. Stat. 216B.62, subdivision 3b should be removed and the funding for this program should be included this funding in the bill.

Second, Article 5, Section 4 directs the Department of Commerce to administer three new grant programs for a Local Government Emerald Ash Borer Removal, Energy Storage for Healthcare Facilities and Residential Biomass Heating Systems. The bill, however, does not provide sufficient resources to the Department to administer and oversee these grant programs to ensure the responsible distribution of these funds.

Third, Article 7, Section 1 caps the amount of money Xcel Energy must transfer to the Renewable Development Account. In so doing, Minnesota would not only be going back on the 1994 nuclear waste storage agreement, but also forgoing part of its leadership position on job creation and economic development from investments in clean energy. This cap restricts funding for the development and deployment of renewable energy technology projects in Minnesota – the original intent of the Renewable Development Fund. The Department opposes this provision.

Fourth, Article 7, Section 4 relocates the Public Utilities Commission (PUC) offices from St. Paul to Virginia, Minnesota. The Commerce Department is required to develop the public record, provide technical resources for energy planning, and conduct thorough environmental impact analysis for the PUC. This proposal would significantly increase costs to the Department and limit our ability to provide effective and efficient services to the public and the PUC. The Commerce Department opposes this proposal.

Fifth, Article 7, Section 5 contains language from HF 3243, the Pre-Paid Pension Bill that would circumvent the PUC process and allow a utility to determine what it charges ratepayers in order to provide shareholders a guaranteed rate of return on pre-paid pension assets. The Department shares the goal of ensuring that pre-paid pension assets are treated uniformly for all utilities and the Department has provided model language that would allow certain pre-paid pension assets to be included in the rate base without reducing the authority of the PUC. However, the Department opposes this language in its current form.

Sixth, Article 7, Section 8 requires PUC to predetermine the prudence of future investments in Xcel's nuclear power plants, which inappropriately shifts risks from the company's shareholders to its ratepayers. Any decision about whether to continue operating Xcel's nuclear plants should be made after a thorough review of the projected capital and operating costs of those plants and comparable alternatives. This will occur in February 2019 during the PUC's review of Xcel's next Integrated Resource Plan (IRP). Once a decision is made in Xcel's IRP about whether and how long to operate Xcel's plants, then a schedule of related investments can be approved by the PUC. In this way, unnecessary investments are avoided and both ratepayer and shareholder interests are protected. The Department opposes the language in its current form.

Seventh, language in Article 8, Section 1 and Article 15, Section 4 requires legislative approval on any proposed rule relating to construction codes that would increase the cost of residential construction or remodeling by \$1,000 or more. The Department opposes this requirement as it would inhibit future energy efficiency growth and hinder the creation and use of new energy technologies.

Finally, Article 15, Section 2 creates new administrative rulemaking provisions, which will prevent the Department from providing compliance information to regulated industries. The Department currently provides policy guidance to regulated entities, sends notification regarding new state and federal laws and regulations and articulates procedures for complying with statutory requirements. This new language will create unnecessary delays and inefficiencies causing market disruption harming both industry and consumers. The Department opposes this language.

The Honorable Jim Knoblach, Chair
May 2, 2018
Page 3 of 3

For these reasons, the Department of Commerce opposes the DE4099 amendment to SF 3656, the Omnibus Supplemental Finance Bill.

Thank you for considering the Department's concerns.

Sincerely,

A handwritten signature in black ink that reads "Jessica Looman". The signature is written in a cursive, flowing style.

Jessica Looman
Commissioner

cc: The Honorable Lyndon Carlson, DFL Lead
Ways and Means Committee

The Honorable Pat Garofalo, Chair
Job Growth and Energy Affordability Policy and Finance Committee

The Honorable Karen Clark, Co-DFL Lead
Job Growth and Energy Affordability Policy and Finance Committee

The Honorable Tim Mahoney, Co-DFL Lead
Job Growth and Energy Affordability Policy and Finance Committee

The Honorable Jean Wagenius, Co-DFL Lead
Job Growth and Energy Affordability Policy and Finance Committee

May 2, 2018

Representative Jim Knoblach
Chair, Ways and Means Committee
453 State Office Building
St. Paul, MN 55155

Re: H.F. 4099, Omnibus Supplemental Appropriations Bill

Dear House Committee Members,

The Department of Labor and Industry (DLI) reiterates the Governor's request that budget and policy bills travel separately, and be debated and negotiated on their own merits. With that said, (DLI) is opposed to the following provisions in the omnibus supplemental appropriations bill:

- **Prohibiting the attorney general from contracting for legal services on a contingent basis** (Article 2, section 16). This language impacts DLI's ability to assert the state's subrogation rights against third parties in workers' compensation claims. In fiscal year 2017, DLI's Special Compensation Fund (SCF) recovered \$182,600 in subrogation claims, recoveries that helped reduce the burden on workers' compensation payers.
- **Requirement that there be additional legislative review of rulemaking for residential building code changes that result in cost increases of \$1,000 or more** (Article 8, section 1 and article 15, section 4). DLI believes that this language will provide little to no benefit to the public or the cause of affordable housing, but will impose unnecessary, costly burdens upon DLI and other agencies. The provision would also make it difficult for DLI to meet its statutory obligation to adopt new model codes within two years.
- **Redefinition of tipped employee status** (Article 9, section 1 and section 9). This language allows employers to deduct the value of a certain level of tips received by their employees from their hourly wage obligation. We do not believe cutting real wages is a workable way to grow Minnesota's economy or to help wage earners. Applying this "tip credit" increases the likelihood of worker exploitation by allowing employers to be involved in the calculation of tips. The language also doesn't include any requirement to notify employees that their employer is utilizing the "tip credit" as justification for paying less than the standard minimum wage.
- **Requirements for policy pronouncements** (Article 15, section 1). This language could significantly delay DLI's work, increase costs, and leave regulated parties without necessary guidance.

Thank you for your time and consideration. If you have questions, please contact me or Assistant Commissioner Heather McGannon (heather.mcgannon@state.mn.us)

Sincerely,

A handwritten signature in black ink, appearing to read "KB" followed by a stylized, cursive signature that ends in a long horizontal stroke.

Ken Peterson
Commissioner
Minnesota Department of Labor and Industry

cc: Representative Lyndon Carlson Sr., DFL Lead, Ways and Means Committee
Representative Pat Garofalo, Chair, Job Growth and Energy Affordability Policy and Finance Committee
Representative Tim Mahoney, DFL Lead, Job Growth and Energy Affordability Policy and Finance Committee
Representative Sarah Anderson, Chair, State Government Finance Committee
Representative Sheldon Johnson, DFL Lead, State Government Finance Committee



May 2, 2018

Dear Representative,

I am writing to express my strong opposition to the \$1,409,000 budget cut proposed for the Minnesota Department of Human Rights (MDHR) in HF4016, the Omnibus State Government Finance Supplemental Budget bill, now incorporated in HF4099. This bill would delay services and deny justice to Minnesotans, eliminate the Department's ability to fulfill its statutory obligations, and cause 18 of the 45 people in the Department committed to protecting civil rights in Minnesota to lose their jobs. If this 30% cut were enacted, fewer people would work in the Department than when I started in 2011, depriving Minnesotans of assistance in protecting their rights.

As you know, Governor Dayton has clearly stated he will veto any agency budget cut submitted to him. There is simply no need for it with a budget surplus of \$329 million. This drastic cut to MDHR is inconsistent with the values of Minnesota and the present needs of its people. Additionally, this bill cuts the Attorney General's Office, which provides legal services to MDHR, and adds requirements about IT spending allocations that negatively impact the Department's ability to serve Minnesotans.

50 years ago, former Republican Governor Harold LeVander in his inauguration speech asked the Legislature to create the Human Rights Department. In his speech to the legislature he said,

"We need people who want to follow the commandment "Love one Another." **Because our most critical problems are really people problems, we are going to have to try to understand people.** How do we encourage society to accept the former convict? How do we motivate underprivileged children? How do we create true harmony among races? How do we assure our senior citizens of a meaningful life?"

The problems of a mature Minnesota reach beyond our towns, counties, and districts – they are problems for all of us. There is no clear-cut single answer to all of these problems. Their causes are complex and illusive. . . . **In a word, I am asking Minnesota to lead.** If we in Minnesota can't create racial harmony, we should ask no other state to do it.

Minnesotans heard Governor LeVander and we passed legislation providing meaningful educational and economic opportunities for Native Americans, legislation prohibiting housing discrimination, and created programs to assist those who had been formerly incarcerated. **Governor LeVander's call for us to act and be steadfast in our determination to build bonds between people still remains true today, this is our work as a Department and as a State.**

The Human Rights Department protects all people in Minnesota. In fulfilling the Human Rights Act, we (1) investigate complaints of discrimination, (2) ensure equal employment opportunities and equal pay to women is provided by contractors working for state and major metropolitan agencies, and (3) use education, conciliation, and conference to address discrimination and disparate outcomes in society.

AN EQUAL OPPORTUNITY EMPLOYER

Minnesota Department of Human Rights
Freeman Building • 625 Robert Street North • Saint Paul MN 55155
Tel: 651.539.1100 • MN Relay 711 or 1.800.627.3529 • Toll Free 800.657.3704 • Fax: 651.296.9042 • mn.gov/mdhr

In the past seven years, we have expanded civil rights for all in Minnesota. Since 2011, the Human Rights Department has added statutorily responsibilities for: (1) helping those formerly incarcerated obtain employment, (2) ensuring state contractors pay women equally, (3) assisting emerging entrepreneurs, and (4) reducing bullying in schools.

The most common type of discrimination complaints filed with MDHR are disability discrimination claims. A few examples of Minnesotans helped by the work of the people within Human Rights include:

- School girls who were sexually harassed in their school by a school official, as well as women being sexually harassed at their jobs;
- Unemployed individuals finding employment with state and metropolitan agency contractors;
- Formerly incarcerated individuals seeking a real opportunity to become employed;
- Men, women and children protected from employment, housing, and education bias because of their race, ethnicity, and national origin;
- Men and women over 40 years of age who were terminated from their jobs;
- Children being bullied because someone doesn't appreciate them for who they are as people;
- Deaf and hard of hearing individuals who wished to communicate with their child's physician in a hospital, their mortgage banker when negotiating a loan, or while being interrogated by the police.

The legislature should be entertaining how to provide additional funding to Human Rights given the retreat by the federal government on civil rights. While this bill maintains funding for the St. Cloud office, the practical reality is that the office will be adversely impacted because of its reliance on support from our St. Paul office.

Budgets are moral documents in which we declare what is important to us, I would ask whether this budget proposal to reduce the number of people working in the Human Rights Department to historic lows reflects the values and needs of the people of Minnesota. I urge you to reject this drastic cut. Let the people of Minnesota know that protecting civil rights is not a partisan issue.

Let us lead on civil rights and focus our collective attention in the legislative and executive branches of Minnesota government to the work of building an inclusive Minnesota for all people who call our state home. Please do not hesitate to contact Scott Beutel, MDHR's Public Policy Director, at scott.beutel@state.mn.us or (651) 231-2795 or myself with any questions.

Sincerely,



Kevin Lindsey
Commissioner

cc: Joane McAfee, Office of Governor Mark Dayton



May 2, 2018

Representative Jim Knoblach, Chair
Ways and Means Committee
453 State Office Building
Saint Paul, MN 55155

RE: House Omnibus Bill, HF 4099

Dear Chair Knoblach:

I am writing with my concerns for the House Omnibus Bill, HF 4099. I want to start by conveying Governor Dayton's objections to the lack of fiscal responsibility for the House position overall, which includes the House budget proposal, House tax bill, House proposal for constitutional dedication of sales taxes, 2017 tax bill with costs exploding into the future, the House failure to extend the health care provider tax, and the House failure to pass the Pension Reform Bill. I want to also convey the Governor's objections to the state government finance portion of the omnibus bill.

Fiscally Irresponsible

As the State of Minnesota's Chief Financial Officer, I want to stress several overarching and significant concerns the Governor and I share with all the House budget proposals—when taken together, they undermine our current budget stability, which Governor Dayton has fought for over seven years to secure.

In 2017, the Legislature and the Governor agreed on a biennial budget that maintained fiscal balance for this biennium and the next. Based on the February Forecast, we have a projected \$329 million budget surplus for the 2018/2019 biennium and a \$251 million balance for 2020/2021.

The House budget bills and tax bill collectively spend more than the \$329 million budget surplus for 2018/2019. The House proposals spend an additional \$30 million by cutting agency budgets; and an additional \$61 million by taking money from other funds. The House raids five different funds, including \$30.8 million from the stadium reserve fund this year alone. The Governor has repeatedly voiced his objections to cutting agencies and to raiding other funds to support programs passed this year. He has made clear that he will veto any bill which cuts previously established state agency budgets.

The House position currently is unsustainable. It uses one time resources and **creates a budget deficit in the next biennium**. Deficit financing is simply not an acceptable fiscal solution, especially

considering our revenue growth rate declined in the most recent forecast. This is neither a fiscally conservative, or fiscally responsible approach to state budgeting.

What is even more troubling, however, is that the House proposals create additional long-term fiscal instability because of the size of the revenue cuts and spending increases in the future, outside of our budget horizon ending in Fiscal Year 2021. Below is a snapshot of the global budget problems created by the House:

- **House Budget Proposal:** There are several provisions in the House omnibus budget proposal that, together, contain almost \$300 million of “hidden” costs. The full impact of these costs occur after Fiscal Year 2021, when they are not currently tracked. In other words, the costs occur outside of our budget horizon. In addition to the tax bill and constitutional amendment noted below, the Disability Waiver rate modifications and Child Care Assistance Program rate increase in the Health and Human Services bill, Special Education Equity Aid in the Education bill, and the new Veterans Homes in the State Government bill will, in total, **add over \$300 million of costs in the 2022/2023 biennium.**
- **House Tax Bill:** The proposed tax bill will create a hole in the budget in the future. Because the tax rate reductions are unaffordable now, the House bill phases them in over several years. They will not be fully phased in until FY 2021, the last year of our budget horizon. The cost of the tax rate cuts will grow from \$130 million in the current biennium to **over \$570 million in the 2022/2023 biennium.** The tax rate cuts will not be any more affordable then. We do not know if our budget can sustain this level of a tax rate reduction. The House tax bill relies on one-time funding from deemed repatriation in the federal tax bill to fund the tax rate cuts. Use of one-time funding for permanent tax rate cuts further risks the state’s financial stability.
- **Dedication of Sales Tax to Transportation:** The constitutional amendment being considered this session will have long-term consequences for our budget. The impact in our current budget horizon is \$167 million. The cost to the general fund of the amendment is **\$438 million in the 2022/2023 biennium** and over \$650 million in the 2026/2027 biennium when it is fully implemented.
- **2017 Tax Bill Tails:** Last session’s tax bill eliminated the inflation factor on the statewide property tax. This tax cut was a \$10 million revenue loss at the time of passage, but the full effect will grow to **\$188 million in the 2022/2023 biennium,** and the full cost will be over \$1 billion in lost revenue over ten years.
- **Expiration of Health Care Provider Tax:** In 2011, the Legislature required that the provider tax expire on December 31, 2019. Failure by this Legislature to eliminate the sunset will deplete the existing health care access fund balance in Fiscal Year 2021, leaving a structural deficit of \$526 million in the health care access fund, and putting at risk the health care that hundreds of thousands of Minnesotans depend upon When we

forecast the 2022/2023 biennium for the first time this coming November, we will reflect the full budgetary impact of the decision to sunset the tax – we will show a health care access fund deficit of **over \$1 billion in the 2022/2023 biennium**. By allowing the provider tax to sunset, these expenses will fall to the general fund. The Governor has proposed the continuation of Health Care Access Fund revenues in a bill traveling separately from his tax bill proposal; we urge you to pass it this session, or risk significant structural deficits and the loss of essential health insurance for many hard-working Minnesotans.

- **Pension Reform:** Another significant omission thus far is passage by the House of the pension reform bill that was passed unanimously by the Senate on March 26, 2018. The pension reform bill is a crucial component of sound fiscal management. Failure to take action this legislative session will have significant budget impacts in the future. The Governor has previously stated his willingness to sign a stand-alone bill as passed by the Senate.

By the end of fiscal year 2023, when the spending and revenue changes identified here are added together, the House position **produces a \$2.5 billion gap in our budget**. We should all agree that any action taken during this legislative session must be fully funded in our current budget horizon and must not be delayed to some future date to disguise the real budgetary impact.

* * * * *

Article 13 (House File 4016, Anderson, S) House Omnibus State Government Bill

The following are MMB's concerns with the House Omnibus State Government bill.

Governor Dayton has been clear that he will not entertain cuts to the operating budgets of agencies, boards and commissions. In fact, the Governor has said that he will veto any bill which cuts previously established state agency budgets. This is not a biennial budget year and the Governor does not see the need to revisit agency budgets. As you know, it is these agencies, boards, and commissions that are required to deliver the services you have mandated in state statutes. Below is a summary of the concerns MMB has with the bill.

- **The bill reduces agency operating budgets by \$18.3 million, and further requires agencies to prioritize reductions to central administrative costs as opposed to those affecting the public.** As someone who has run a private business, I know that administration costs are directly connected to the products and services delivered. Since any reduction to agencies administrative costs will have direct impacts on services delivered, this provision is irresponsible and will not produce more effective government services.
- **The agency budgets that are cut by the bill include the Department of Administration, Minnesota Management and Budget, the Department of Revenue, and the Department of Human Rights. These agency cuts are simply nonsensical.** They run

contrary to the public's expectation that when the legislature passes new laws and tasks our agencies with work to implement them, we will have the necessary resources to do so effectively. Of particular offense is the adversarial nature of the attack on the budget of the Department of Human Rights. In a separate bill, HF 4459, the House proposes statutory changes that will greatly expand the workload of the department's sexual harassment investigations – **yet this bill cuts its budget by over 30%**. The Department has noted that these cuts would force the layoffs of 18 staff members – fully 40 percent of this small agency's entire workforce. Previous testimony in committee has reflected these cuts are motivated by score settling and not supported by policy concerns. The Governor is opposed to these arbitrary, unnecessary budget cuts, and in particular considers the cuts to the Department of Human Rights to be an attack on the rights of all Minnesotans.

- **The bill requires MMB to reduce agency budgets to fund an appropriation for MNLARS.** The Governor signed the MNLARS funding bill into law with the expectation that driver and vehicle services accounts reserves would be used, and agency budgets would not be cut. This provision is contrary to that agreement.
- **Legislative Budget Office concerns:** This bill makes several changes to the statutory authority for the Legislative Budget Office (LBO) that contradict the agreement with the Governor when this office was established last session.

Contrary to the agreement reached last session, this bill cuts MMB's budget to finance the new LBO. The LBO cannot be funded at the expense of the MMB's Budget Office. MMB's broad statutory responsibilities remain and any cuts threaten MMB's ability to deliver on these duties.

MMB opposes the transfer of the Results First program to the new office. Minnesota's Results First is one of the leading programs in the country for developing data-based policy decision-making... The Results First initiative requires dedicated staff year round, and is not "extra work" to be performed in the summer in order to keep fiscal staff in the LBO busy. The LBO must be established on its own and support the work of the Legislature.

The bill directs MMB to turn over operational control of the fiscal note system to the LBO. To be clear, MMB is working on a plan to accomplish that transfer. MMB defines operational control as hosting and maintaining the systems as a whole, which includes system access and security; system tables update prior to the start of the legislative session for legislative members, fiscal analysts, budget officers, and agency fiscal note coordinators; creation and maintenance of manuals; user training; agency assistance; system fixes and enhancements; and all costs associated with maintaining the system. It will take MMB approximately 6 months to transfer operational control to the LBO.

We are disappointed that this bill does not address the loss of transparency as fiscal notes move from one branch of government to the other. In addition, there are not adequate data protections. The LBO should be subject to the Minnesota Data Practices Act, similar to the Office of the Legislative Auditor. Basic open government principles and requirements should not be compromised simply because the work is done in the legislative branch. Fiscal notes and the information used to create them should be public information unless protected by law.

Finally, MMB believes that we must abide by the agreement reached last session for the timely implementation of the LBO.

- **Sexual Harassment Prevention proposal concerns:** Governor Dayton included a request in his supplemental budget to improve our ability to prevent and address sexual harassment in our state's workforce. He requested funds to support an office to investigate harassment complaints and to provide additional resources to our state employees. However, instead of promoting the goals of harassment prevention, the bill language would be a significant detriment to our efforts by cutting agency human resource and affirmative action offices and denying critical support services to our state workforce. This is done by the bill in two ways:
 - **First**, the bill expands the duties of the office by requiring it to handle all complaints of *misconduct* – in addition to harassment. Under this language, the office would provide intake and investigation of nearly all forms of employee conduct that can result in discipline. With this additional language, the office is not sufficiently funded to perform the expanded scope of work.
 - **Second**, the bill requires any duplicative or conflicting work done within agencies to be transferred to the new office. In effect, the language would gut agency human resource offices and affirmative action officer resources, having the opposite effect of our goal of preventing harassment by reducing the services we provide our employees.

The core purpose of the Governor's request to create a new, independent office was to provide our employees with an additional option to report harassment and to ensure highly skilled and independent staff are available to investigate complaints. Pursuant to the statutory duties of MMB under 43A, we already have the statutory authority to develop the office. We simply need the funding. We will carefully monitor the implementation of the office and, where appropriate, we will report cost savings and eliminate services within agencies if they become unnecessary.

MMB was not consulted in the drafting of the language and, as it is currently written, MMB opposes it. While we would gladly welcome additional, urgently-needed resources to support our efforts to prevent harassment in the workplace, the proposal offered by

the House would create even greater barriers.

- **Transfer of stadium reserve funds concerns:** The House bill takes \$30.8 million from the stadium reserve fund in this biennium to offset additional spending in the House omnibus bill; and takes an additional \$62.5 million in the next biennium to partially offset the tax cuts in that biennium. Reducing the reserve at this time is not responsible financial management and the Governor objects to any reduction in the fund this session.

To understand why raiding this fund is not fiscally responsible, it is important to understand the numbers. We currently have \$27 million in the stadium reserve fund and estimate that annual costs for the stadium are \$42 million. We recommend retaining no less than one year of annual costs. The forecasts show the reserve growing over the next three years, but that is all *forecasted growth*. We do not recommend reducing current nor future reserve balances in advance of actually receiving those revenues. Similar to the budget reserve, these funds are intended to buffer the general fund against an economic downturn or other unforeseen events. With a \$329 million surplus, raiding the stadium reserve based on projected increases is not fiscally prudent.

The fiscal tracking for this bill misrepresents the full cost of the stadium reserve changes. In addition to the transfer of \$30.8 million describe above, another \$62.5 million of general fund revenue (from capping the reserve at \$26.8 million) should be reflected in tracking for this bill and not the tax bill. Tracking these resources in the tax bill is misleading, and makes the tails in the tax bill appear smaller than they really are.

Also, the House bill proposes to use the stadium reserve fund as a down payment on three new veterans' homes. The Governor first of all wants to ensure that any proposal for new veterans' homes accounts for all the anticipated costs, which the House bill does not provide. Second, the Governor supports using the state's bonding capacity to fully-fund new veterans' homes. Typically capital projects are funded with state general obligation bonds that allow the state to leverage its revenue for low interest bonds rather than using general fund cash.

- **Election and campaign finance law changes.** The Governor has stated repeatedly that any changes to these areas of statute must have bi-partisan support for his signature and should travel separately instead of being buried in an enormous omnibus bill, rife with controversial provisions on a myriad of unrelated topics.
- **MN Sports Facilities Authority governance changes.** During the last year, the US Bank Stadium Authority has made a number of changes to enhance transparency such as publically posting its annual budget and financial reports, meeting minutes, use agreements, bylaws, and the newly updated suite-use policy on its website. It also already reports to the Legislature and has expanded the committees who receive copies of that report. None of the stakeholders participated in the drafting of changes to the

Minnesota Sports Facility Authority governance and the Governor does not support the language.

- **The bill limits the Governor's authority to support the work of his or her office by capping transfers from agencies.** This is micro-managing the executive branch, limits flexibility and responsiveness, and is unnecessary.
- **The bill fails to fund enterprise cybersecurity needs. Instead, it requires agencies to dedicate 3.5% of their existing IT budgets for cybersecurity.** While some agencies may already be spending 3.5% on cybersecurity, others may not and it may not make sense for them to do so based on the scope of their work and their IT needs. To the extent that agencies are not currently budgeting at that level, this language would result in a cut to their budget. We all seem to agree on the need for investments in cybersecurity, as Minnesota's IT systems are subjected to 3 million attacks each and every day. The Governor believes we should make strategic and targeted investments rather than set an arbitrary threshold. The security of Minnesotans' personal data, and the effective operation of our state's IT systems, should be our shared priority; and we ought to be straightforward and decisive in our commitment to pay for it.
- **The bill requires agencies to report to the Legislature when submitting to Minnesota Management and Budget any uncollectable debt of over \$10,000.** This public information is already available to the Legislature upon request making a new administrative report unnecessary. We encourage you not to create new, unnecessary layers of bureaucracy in state government.
- **The bill micro-manages the executive branch by prohibiting any salary savings from being spent on anything other than the vacant position.** This language limits a commissioner's ability to direct resources to emerging priorities, statutory obligations, or necessary improvements within an agency. In order to best serve the public, and deliver on legislatively mandated outcomes, it is critical agencies have flexibility to be innovative and efficient in fulfilling statutory obligations.
- **The bill requires that any enterprise software project be purchased or built through a vendor.** This blanket requirement assumes that the only solution exists outside of state government. Our recent experience with our budget systems has proven the contrary. Requiring agencies to seek a legislative exemption from statute will only slow projects down, and limit the flexibility of state government to provide the quality, efficient, and timely services that Minnesotans expect and deserve.
- **The bill cuts \$500,000 from the sexual harassment prevention funding if MMB does not realize savings from a new gainsharing program.** This number has no factual basis, not to mention the language of the gainsharing statute that the House insists that MMB implement is unworkable. MMB has performed significant research into gainsharing

programs in other states and found the assumption of half a million dollars in savings ridiculous. Even the state of California – with seven times the population of Minnesota – rarely experiences more than \$70,000 of savings in one year, and often far less in an average year. California also employs two FTEs to administer the program. MMB is expected to administer it without any additional resources and an already over-extended staff from all other statutory obligations. The so-called “savings” from this program are simply another \$500,000 cut to MMB.

- **The bill moves the Data Practices Office from the Department of Administration to the Office of Administrative Hearings (OAH) for no reason.** There are no service deficiencies that merit the transfer of these duties and would not result in any service improvements. Current law intentionally separates the Office from OAH to provide separate forums for Minnesotans who want data practices support and training, and those who need to pursue more advanced legal remedies. This transfer would likely result in additional costs and disrupt the work of the agencies. Both agencies oppose this language and there was no public support for this transfer – all testimony heard in committee was in opposition to this transfer.

This session, we have no statutory or constitutional obligation to pass any budget bills. Rather we are faced with an opportunity that many states do not share: we have resources available to solve problems. There are multiple issues where we agree we can and must agree on a solution. Governor Dayton has repeatedly asked that we work toward agreement now, and that we do so in separate, stand-alone bills.

We can work together on:

- the opioid crisis
- improving protections for our elderly and vulnerable adults
- safer schools for our youth
- emergency school aid for this year and early childhood learning for the future
- addressing sexual harassment in the workplace
- fixing the vehicle registration system
- passing a robust bonding bill to maintain our higher education buildings, our wonderful parks, our precious water, and affordable housing
- pension reform for over 511,000 workers and retirees
- a tax bill that responds to the federal law while giving tax cuts to individuals and families

If we agree to solve these problems, we can also agree that the solutions can be funded – in a fiscally responsible manner – by our modest surplus of \$329 million.

Additionally, the Governor reiterated his request that budget bills focus on budget matters and treat policy decisions as separate issues. As we have seen in recent legislative sessions, it is not a productive

nor transparent process to link unrelated provisions that can cause disagreement on important areas of critical state needs.

Please do not hesitate to let me know if I can provide additional information on the House budget proposals.

Sincerely,

A handwritten signature in black ink, appearing to read "Myron Frans". The signature is fluid and cursive, with a long horizontal stroke at the end.

Myron Frans
Commissioner

cc: Representative Lyndon Carlson
Representative Sarah Anderson
Senator Mary Kiffmeyer
Representative Leon Lillie
Senator Jim Carlson

May 3, 2018

State Representative Jim Knoblach
Chair, House Ways and Means Committee
453 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd
Saint Paul, MN 55155

Dear Chair Knoblach and Committee Members,

Since 1979, the Data Practices Office has existed as part of the Department of Administration (Admin). The office exists to provide the public and government agencies with assistance and advice on appropriate ways to navigate the Minnesota Government Data Practices Act and the state's Open Meeting Law.

Since 2010, the Office of Administrative Hearings (OAH) has also had responsibilities to the public under the Minnesota Government Data Practices Act (Act). Under section 13.085 of the Act, members of the public can get a hearing at OAH if they believe that a government agency has violated their rights under the Act.

H.F. 4016 moves the duties of the Data Practices Office from Admin to OAH. We are unaware of any service deficiency that this move would solve or other service improvements that would result from the bill. Given the lack of any obvious benefit, in addition to the increased cost and disruption that would necessarily result from any transfer of functions between the two agencies, we write to express our opposition to the relevant provisions of the bill.

The Admin staff are highly regarded for the wide range of no-fee administrative services they provide to promote voluntary compliance with government data practice and open meeting laws, including training, on-line resources, informal assistance, and formal advisory opinions. OAH is similarly respected for its work. For this reason, current law is intentionally designed such that OAH provides a completely separate and independent forum to which impacted parties can escalate administrative interpretations, or seek to compel compliance with the law.

We are unaware of any stakeholder group requesting or supporting this change. If there is dissatisfaction with how administrative services are being provided, both Admin and OAH stand ready to work with legislators and stakeholders to make improvements in order to better meet the requirements of the law and further government transparency.

Sincerely,



Matt Massman
Commissioner



Tammy L. Pust
Chief Judge, Office of Administrative Hearings

cc: Representative Sarah Anderson
Representative Peggy Scott
Representative Liz Olson
Erin Campbell

May 3, 2018

The Honorable Jim Knoblach
Chair, Ways and Means Committee
453 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, Minnesota 55155

Dear Representative Knoblach:

On behalf of the Minnesota Department of Employment and Economic Development (DEED), I am writing to provide feedback on Articles 5, 6 and 7 in the House supplemental omnibus bill. Provisions of the House bill make deep cuts to DEED programs and if approved will severely limit investments in our workforce, businesses, and communities, particularly in Greater Minnesota.

Governor Dayton proposed a supplemental budget that focuses on better government for the people of Minnesota, all while protecting Minnesota's current and future economy. It is my hope that we can work together to pass a supplemental budget that reflects those priorities. With that, below you will find an overview of areas in the House omnibus bill that DEED either supports or has concerns with.

Border-to-Border Broadband

I wanted to thank you for your support of \$15 million in FY19 for the Border-to-Border Broadband Development grant program. While I am appreciative that the House included funding for broadband, I am concerned that the \$15 million proposed in the bill will not keep pace with the urgent needs identified in communities across the state.

As you know, Governor Dayton's budget recommended \$30 million in FY19 for the program, which would expand broadband access to approximately 11,000 households, businesses and community institutions. The recommendation in the House bill would only expand broadband access to about 5,500 households, businesses and community institutions. I encourage you to increase funding for the Border-to-Border Broadband Development grant program to meet the Governor's level and to ensure that Minnesota families and businesses are able to compete.

Cuts to the Minnesota Investment Fund and Job Creation Fund

It is important that Minnesota has a fully funded complement of economic development tools to support job creation and business expansion throughout our state. Minnesota's incentive programs, like the Minnesota Investment Fund (MIF) and Job Creation Fund (JCF) are modest finance programs relative to programs available in other states, yet they remain critical components for economic development competitiveness and business decisions to expand or relocate, especially in Greater Minnesota.

The bill cuts MIF by \$5 million for FY19 and earmarks a further \$3.5 million in FY19, leaving only \$4M on the bottom line to support business expansion and relocation activities in the state. Since 2011, MIF has provided funds to more than 102 businesses helping them add a projected 9,000 quality jobs throughout the state and leverage more than \$1.55 billion dollars in private investment. Recent MIF investments include: Artic Cat and Digi-Key in Thief River Falls, Cirrus Industries in Duluth, Ice Castle Fish Houses in Grand Rapids, Prime Pork in Windom, Viracon, in Owatonna, Advanced Extrusion in Rogers, Land O'Lakes in Arden Hills, and Polaris Industries in Plymouth, to name a few.

The bill also cuts JCF by \$7 million for FY19, reducing the program to \$1.5M for FY19 and reducing the base to \$5 million in FY21. Due to anticipated demand, this cut to JCF will essentially end the program in early FY19. The JCF has provided funds to more than 84 projects statewide since 2014 which includes 43 in the Twin Cities and 41 in Greater MN. JCF investments have created and retained more than 5,000 jobs and leveraged \$1.03 billion in total private investment. The JCF is currently fully subscribed for FY18 with multiple awards being made this week and two others likely in May.

Recent JCF awards include: Blattner Energy in Avon, Dunbow Textile in St. Cloud, North Star Mutual Insurance in Swedzinski, Anderson-Crane Company in Litchfield, Capital Safety in Red Wing, Midwest Dry Cast in Luverne, Harmony Enterprises in Harmony, Sportech in Elk River, and Valmont Industries in Farmington, to name a few.

With a budget surplus, these critical resources should not be cut, because Minnesota will be left with very few dollars to support business expansion and relocation in our state and our competitiveness will suffer.

Minnesota Investment Fund Language for a Paper Mill

The Governor's budget recommended one-time language to be added to the FY 2019 MIF appropriation. This language provided for an investment of \$2 million of the existing MIF appropriation for a paper mill in Duluth to assist with upgrades to its facility and to retain almost 200 employees. I encourage you to increase the dollar amount appropriated to this project from the FY19 MIF appropriation, as well as restoring proposed cuts to the MIF program.

Prairie Island Net Zero Project

The bill establishes the Prairie Island Net Zero Project at line 150.12, initially funded at \$20 million in FY18 and then funded at \$5 million per year for four additional years. Funding for this project amounts to \$40 million and the bill language contains little guidance about the types of research, development and implementation of renewable energy projects that the project is meant to include. Additional language in the bill further describing the legislative intent of the project would be helpful in ensuring that the project meets expectations. Lastly, this project does not include any administrative costs to fund the monitoring and oversight of taxpayer resources that DEED will be required to provide. I encourage you to include additional guidance and administrative costs for this project in the bill.

Technical Issues

There are a number areas in the bill where we have identified technical issues that I urge you to resolve before passing this bill:

- All direct appropriations except for broadband are drafted to come from the "Business and Community Development" program. The direct appropriations should be revised to come from the proper budget program area to ensure good administration and budget tracking. For instance, the workforce training programs should be from the "Workforce Development" budget program and the grants to Advocating Change Together and Centers for Independent Living should come from the "Vocational Rehabilitation" budget program.
- The appropriation at line 114.14 should go to the Pollution Control Agency (MPCA). The MPCA is listed on line 115.4 because they have expertise in water quality regulation and permits. This area is outside the scope of DEED's expertise.

- The appropriation at line 124.10 for Florence Township is not consistent with the purpose of the Minnesota investment fund under Minnesota Statutes, section 116J.8731 which may make this grant difficult to administer as required by statute.

Investments in Three Minnesota Organizations

The Governor's budget also recommended funding for the following organizations: Family Partnership - \$1.4 million; Family Tree Clinic - \$900,000; and Tubman Center - \$383,000. This funding would allow these organizations to upgrade, expand and renovate their facilities so they can provide better serves to Minnesotans. I encourage you to include this language in the bill.

Policy Provisions

Finally, I want to reiterate Governor Dayton's direction in his April 9th letter to legislative leaders regarding the inclusion of policy provisions in budget bills. Policy bills should travel separately so they can be discussed on their own merits and passed as stand-alone bills. With respect to this bill, this includes the name change for the Minnesota Investment Fund, policy changes in the use of local government loan repayment funds, the satellite pilot program in the border to border broadband program and policy changes to the dislocated worker rapid response activity related to the Electrolux plant closure.

I know that the committee has challenging work ahead and DEED is committed to working with you to develop a budget that will strengthen Minnesota's economy. Thank you in advance for your consideration of this feedback. Please do not hesitate to contact directly me or Darielle Dannen (darielle.dannen@state.mn.us) with any questions.

Regards,



Shawntera Hardy
Commissioner

CC: Representative Tim Mahoney
Representative Pat Garofalo

May 2, 2018

Representative Tim Mahoney
DFL Lead, Job Growth and Energy Affordability Policy and Finance Committee
345 State Office Building
Saint Paul, MN 55155

Re: Impact of Proposed Tip Credit Language in H.F. 4099, Omnibus Supplemental Appropriations Bill

Dear Representative Mahoney,

The Department of Labor and Industry (DLI) conducted analysis on the potential impact of the tip credit language in H.F. 4099, Omnibus Supplemental Appropriations Bill on wage theft, workers, and compliance. If this legislation is adopted, please consider the following potential consequences and impacts:

- Employees earning tips will no longer keep their total guaranteed state minimum wage and earned tips for good services. Rather, their wages can be adjusted by their employer based upon how well their customers tipped them. If a worker provides good service and receives enough tips for their hard work, the employer is then able to pay their employee less than the minimum wage. The results is a penalty on workers' wages.
- Employers may assert greater custody over employee tips to account for amounts for purposed of determining an adjusted wage rate for each respective employee. This could make it easier for unscrupulous employers to manipulate accounting practices and employees; tipped amounts to lower minimum wage rate employer for each respective employee. This could make it easier for unscrupulous employers to manipulate accounting practices and employees' tipped amounts to lower minimum wage rate obligations in favor of the employer. Alternatively, when exercising greater custody over employee tips, some unscrupulous employers may use the opportunity to skim and steal from employees' earned tips prior to reporting the amounts to the unsuspecting employees. As long as the hourly rate of wages plus tips equals \$14/hour, the employer could conceivably take a portion of the tips without their employees' knowledge and still benefit from taking the tip credit.
- Employees may find it more difficult to independently verify and track their earnings.
- Greater complexity in the law creates more confusion and opportunity for abuse, as well as a higher risk for even the most honest of employers to err in their efforts to achieve compliance

with the minimum wage law. We anticipate greater employee and employer confusion as to when the tip credit applies or when it doesn't, making compliance more difficult to attain in an industry already suffering large amounts of wage theft.

- Creates unintended incentive for workers to underreport earned tips—may negatively impact tax collection.
- Greater complexity in how wage rates are determined for tipped workers in Minnesota will result in an increase in DLI enforcement workload to address non-compliance.

Additional Context:

Under current law, employers may only be involved with tips in the following ways:

- Upon request of employees, to safeguard gratuities to be shared by employees and disburse shared gratuities to employees participating in a tip sharing agreement created by the employees without management involvement
 - Report the amounts of tips received as required for tax purposes, and
 - Post the amounts of tips received as required for tax purposes, and
 - Post a copy of the law on tips for the information of employees.
- (See M.S. 177.24, subd 3.)

Thank you for your request for more information on the impact of the proposed Tip Credit Language in H.F. 4099. If you have questions, please contact me or Assistant Commissioner Heather McGannon (heather.mcgannon@state.mn.us)

Sincerely,

A handwritten signature in black ink, appearing to read 'KB Peterson', with a long horizontal stroke extending to the right.

Ken Peterson
Commissioner
Minnesota Department of Labor and Industry

May 3, 2018

The Honorable Roger Chamberlain
Chair, Senate Taxes Committee
3225 Minnesota Senate Building
95 University Avenue W.
Saint Paul, Minnesota 55155

Dear Chair Chamberlain:

I write to express concerns about SF 3982, the first engrossment, and its impact on Minnesota taxpayers and the state's general fund.

We appreciate that the bill as amended includes a number of items with which the Governor agrees, including:

- Moving to "adjusted gross income" for individuals while keeping "federal taxable income" for corporations
- Keeping the standard deduction and personal and dependent exemptions for individuals
- Fully conforming on Bonus Depreciation with the 80% add back under current law
- Permanently extending the mortgage insurance premium deduction and tuition deduction
- Fully conforming to the Disaster Tax Relief Act and the Bipartisan Budget Act
- Conforming to domestic income provisions of the federal bill for businesses

In other areas, this bill and Governor Dayton's differ in some important ways.

While SF 3982 keeps most itemized deductions that were reduced or repealed in the 2017 Federal Tax Law, not all Minnesotans will keep those benefits. For example, Minnesotans who enter into new agreements to pay alimony and those who have certain employer provided bicycle-commuting expenses will see a tax increase. The bill fully conforms to 179 expensing, but it delays implementation by one year pushing those costs into the next biennium. The bill also extends the Angel Tax Credit for one year, however, we look forward to working with you to double the amount of the credit provided in the bill to match the \$10 million in the Governor's proposal. The Angel Tax Credit has helped over 345 Minnesota businesses in growing industries such as software, biotechnology, and medical devices secure needed startup capital.

We are appreciative that SF 3982 as amended includes many of the department's policy and technical bill provisions including moving to more inclusive language for our tax code, updating certifications, and providing clear guidance for taxpayers. However, we are concerned about some of the provisions that were removed or modified.

While there are many items in the bill that are aligned with the Governor's approach, there are significant differences that must be reconciled to get to a final bill.

One area of concern is that the bill does not conform to any of the federal law changes on foreign income. SF 3982 as amended does not bring to Minnesota its share of the deemed repatriated income. The Governor's approach follows established Minnesota policy, and mirrors the federal policy enacted allowing this income to be reduced by the dividend received deduction and single sales factor apportionment before being taxed.

The bill does not conform to the federal provisions on Global Intangible Low Tax Income (GILTI) or Foreign Derived Intangible Income (FDII). The GILTI provisions operate as a minimum tax that is intended to make sure United States corporations and their foreign subsidiaries pay corporate tax. As written, SF 3982 as amended shields multi-national corporations with foreign subsidiaries.

In addition, SF 3982 as amended does not include other items from the Governor's proposal including:

- common sense provisions to make our business taxes more fair;
- limitations on the type of software that qualifies for the data center exemption;
- tobacco tax changes to improve public health and to cut down on tax evasion;
- common sense property tax fairness provisions including a change that will help seniors; and
- a harvest credit that will provide an incentive to harvest more timber on private lands.

Individual rates cuts

The bill cuts the first tier tax rate from 5.35 percent to 5.1 percent. However, the rate cut will help high-income earners as much or more than other Minnesota families. Last year, the senate addressed this issue by adjusting the income thresholds for the third tier rate.

Married joint filers earning \$20,000 will receive a \$50 tax cut, while those earning \$150,000 per year will receive a \$95 tax cut.

The Governor's approach would help low and middle-income families with the expansion of the Working Family Credit to larger families, saving 329,000 Minnesotans an average tax reduction of \$160. It also creates a new Personal and Dependent Credit of a \$60 per person tax credit for individuals earning less than \$90,000 and married tax filers earning less than \$180,000 per year. About 2 million Minnesotans would get an average tax cut of \$115.

Under the Senate's approach, a family of four earning the state median income of \$65,000 would receive a \$95 tax cut because of the lower rate. Under the Governor's proposal, that same family of four would receive a \$240 tax credit because of the newly proposed credit.

The Senate bill also changes how tax provisions are indexed by moving to chained Consumer Price Index (CPI). This will mean that brackets and credits will increase more slowly, increasing taxes on individuals. These changes may seem technical but they will have real impacts on Minnesotans by raising their taxes over time compared to what they would pay under current law.

Estate Tax

SF 3982 as amended increases the estate tax exemption to \$5 million starting in 2019. The estate tax exemption is currently \$2.4 million. Under the current \$2.4 million exemption, about 350 estates would owe estate tax. This proposal would reduce that number to about 100.

Under the Senate's new exemption for an estate valued at \$5 million, they would see a tax cut of \$338,000 compared to what they are paying this year under current law. Despite the provision's significant cost of over \$80 million, no small businesses or family farms will benefit from this proposed change because of the \$5 million subtraction under current law.

Without an estate tax, many unrealized capital gains would go untaxed in Minnesota. These unrealized capital gains account for a significant amount of value in large estates; about 37 percent of the value among estates above \$500,000 and about 56 percent for estates over \$5 million. For these reasons, the Governor opposes this provision and recommends freezing the estate tax exemption at \$2.4 million.

Health Insurance-Related Provisions

A number of provisions in Article 6 are concerning because they: prohibit Governor Dayton's proposal for a MinnesotaCare Buy-In; cut MNSure's budget by 25 percent; eliminate MNSure's authority to choose which plans are sold on the exchange; and require the Minnesota Department of Commerce to seek a federal waiver allowing individuals to purchase health insurance and receive advanced premium tax credits (APTC) outside of the exchange. In addition to threatening the integrity of over \$300 million in annual tax credits, federal regulators have previously communicated to the state that an application like the one contemplated by the bill would not likely not be approved.

Taken as a whole, this change undercuts Minnesotans' present and future options for affordable health insurance coverage, and works against our efforts to help Minnesotans get the health care they need. These provisions do not belong in a tax bill.

The Governor's proposal to allow individuals to "Buy-In" to MinnesotaCare would leverage the state's public health care program purchasing power to get better value for individual market consumers as well as the state. This proposal builds on the successful legacy of the bipartisan MinnesotaCare program, which is known for providing health insurance for those who earn too much to qualify for Medicaid but have difficulty affording health care. SF 3982 as amended prohibits this cost saving measure, which provides Minnesotans with better access to affordable health insurance.

The effects of a 25 percent reduction to MNSure's budget would affect nearly all areas of MNSure's business, and Minnesotans needing to purchase coverage will suffer the impact of those cuts.

SF 3982 as amended also eliminates MNSure's authority to choose which products are sold on the exchange. Given the rising cost of health care and narrowing of provider networks, it is important for Minnesota to have the ability to negotiate on cost and spark competition between insurance companies.

Affordable health care is important to all Minnesotans; however, these provisions are concerning and have no place in a tax bill.

Other areas of concern

This bill conforms to the federal treatment of 529 plans to include tax benefits for K-12 private school tuition. The Governor has expressed his concerns about extending public money to private schools, but this bill provides additional ways state government would reimburse individuals for private school tuition.

Next, SF 3982 as amended includes a provision restricting the ability of local units of government to impose taxes and fees on food and food containers. We are concerned about this proposal and other proposals that pre-empt the decisions of local governments.

We appreciate Senator Rest's work in clarifying some elements of the stillbirth tax credit, specifically in the case of parents who live near a Minnesota border who have a stillbirth in another state. However, we are concerned that this bill takes the credit away from families who would be eligible under current law. We hope the exclusion of some families was not the intent behind the proposal and we look forward to working with you to update the language.

This bill asks the Department of Revenue to complete a study of state assessed property related to pipelines. For context, the state assesses the property of about 160 companies – some years there are more, some years less. That means that since 2008, the state has performed about 1,600 valuations. Of those, 1,532 or 96 percent, of valuations were not appealed. The department completed a study similar a few years ago and looks forward to working with you if this provision moves forward to ensure the report framework is in the best interest of Minnesota.

We are concerned about the provision making changes to the occupation tax and look forward to ensuring this tax – which is in lieu of the corporate tax for mining companies – treats them fairly relative to other companies in the state.

Contingent rate cuts threaten budget stability

Finally, the provision that requires a contingent or triggered rate cut based on the November forecast information is concerning for a number of reasons.

First, the contingent cut provision would require a rate cut in a future year based on balances on the November forecast without knowing the economic conditions or the needs of Minnesotans at that future time. Tax cut decisions should be made with the most current information available. However, this provision would mean that the legislators with the best information would not be the ones making that decision. Instead, they will be constrained by this legislation.

Next, SF 3982 as amended reduces rates based on projected balances in the November forecast. However, as you know, the legislature makes its budgeting decisions on the February forecast. This bill sets up a potential scenario for the November forecast to lead to a tax cut, only to have the forecast

change to a deficit in February that would be further compounded by the automatic rate cuts that just went into effect.

The state would then be forced to increase revenue or cut spending after the automatic rate cuts already took place, even though those rate cuts were actually unaffordable. Minor fluctuations in economic data can cause sizable swings between forecasts. In addition, forecast assumptions could change between November and February that could cause significant swings in projected revenues. One such example took place after the most recent November forecast, with federal law changes affecting state revenue and spending. Congress often puts off the most significant legislation until the end of the year, which would occur after the November forecast but before the February forecast.

Another cause for concern is that the provision takes decision making power away from future state legislatures by automatically cutting rates. Therefore, making unavailable the revenue stream that would otherwise be there to fund important services, investments, or make different choices about tax cuts based on the then current fiscal state of our state's budget.

This is particularly concerning because our forecasts do not take into account the cost of maintaining current services. Therefore, prioritizing revenue reductions may result in the loss of government services or aids such as school aid. In Minnesota, we do not include inflation in the forecast, so a surplus at the time of the November forecast would result in a rate cut on a faulty assumption that we could afford a tax cut without reducing services.

An additional cause for concern is that this provision prioritizes tax cuts over fiscal stability. Current law allocates a portion of the November forecast balance to the budget reserve to protect the state's fiscal stability going forward and to buffer against economic downturns. The state's commitment to our rainy day fund, and deposits made into it, have been met with satisfaction by rating agencies and have lowered our debt service costs as a result. Prioritizing small tax cuts over long-term fiscal stability for the state is unwise and irresponsible.

Instead of providing more long-term stability in state budgeting, this bill will mean a return to instability by prioritizing tax cuts – based on limited and premature information – over any other investments in Minnesota including our reserve.

The Governor is opposed to the contingent rate cut provision in this bill.

Fiscal Responsibility

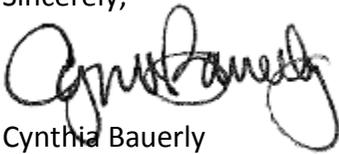
Governor Dayton has been very clear about his commitment to fiscal sustainability for the State of Minnesota. As he expressed in a letter to legislative leaders on April 9, the long-term fiscal stability of the state is the Governor's highest priority. He has worked over the past seven years to restore the state's fiscal stability and he will not support any bill that threatens that stability.

This commitment to long-term fiscal responsibility is the reason the he has proposed restoring three items in last year's tax bill: the State General Levy Inflatior, the Cigarette Inflatior, and the Estate Tax freeze at \$2.4 million.

We are still reviewing the bill including items such as the sales and property tax exemptions. We will provide additional information on these and other issues as the bill moves forward. The department will also work with you and committee staff to ensure technical and administrative issues can be addressed.

We look forward to working with the committee as this bill moves forward. There are areas of agreement, but we have a great deal more to do if we are to put low and middle-income families first in a tax bill that protects family budgets while also preserving the state's fiscal future.

Sincerely,

A handwritten signature in black ink, appearing to read "Cynthia Bauerly". The signature is fluid and cursive, with the first name being more prominent.

Cynthia Bauerly

Commissioner

CC: Senator Ann Rest



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May 3, 2018

The Honorable Jim Knoblach, Chair
Ways & Means Committee
Minnesota House of Representatives

The Honorable Lyndon Carlson, DFL Lead
Ways & Means Committee
Minnesota House of Representatives

The Honorable Pat Garofalo, Chair
Job Growth & Energy Affordability Committee
Minnesota House of Representatives

The Honorable Tim Mahoney, DFL Lead
Job Growth & Energy Affordability Committee
Minnesota House of Representatives

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

RE: Omnibus Job Growth and Energy Affordability Policy & Finance Bill

Dear Representatives,

I am writing to provide comments from Minnesota Housing on the Omnibus Job Growth and Energy Affordability Policy and Finance bill, which is included in HF 4099 and will be considered on the House floor today.

Homework Starts with Home

The Governor included \$4 million in his supplemental budget for Homework Starts with Home and made the program part of Minnesota Housing's base budget. This funding is used to provide short-term and long-term rental assistance to families with school-aged children that are homeless or highly mobile. The initiative would help provide stable housing for 500 families, including an estimated 1,000 Minnesota kids. This initiative builds on the success of a pilot program that created housing stability for 90 percent of participants and strengthened attendance for students. There is statewide need for this funding. In the 2016-17 school year, students facing homelessness attended 1,241 different schools located across 77 of Minnesota's 87 counties.

We appreciate that the omnibus bill includes \$1 million in additional one-time funding for the initiative; however, we are concerned that the funding comes from cuts to programs at other agencies in our bill area. We hope that as the budget process continues, funding cuts will be restored and the committee will consider funding this important initiative at the level proposed by the Governor. This level will allow the program to be extended to more school districts across the state.

Tax-Exempt Bond Reform

The omnibus bill includes HF 2112 which pertains to tax-exempt bond reform. A work group of housing stakeholders met over the course of the summer and fall last year and agreed to five consensus items that should make up any bond reform package. These five items are reflected in HF 2112 and the omnibus bill. We have provided information on technical concerns about the bill to its authors in a joint letter from Minnesota Management and Budget. We appreciate the ongoing conversations we are having on these issues and hope to find a resolution.

We remain concerned about the two additional items in this bill beyond the consensus items. We have significant concerns about the provision in Article 4, Section 12 on lines 60.3 through 60.14 that 'automatically' allocates affordable housing tax credits. This provision is not in compliance with federal law. We are also concerned about the provision of the bill in Article 4, Section 21 on lines 64.18 and 64.19 that eliminates the state's housing priority for homeownership for two years.

Manufactured Home Park Infrastructure

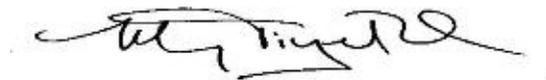
This bill includes one-time funding for the Manufactured Home Park Redevelopment Program. While this is not a part of the Governor's budget, we believe that manufactured housing is an important affordable housing resource. However, we are concerned that funding for this program comes from cuts to programs at other agencies in our bill area.

Manufactured Home Relocation Trust Fund

We appreciate that the bill includes HF 3285 to increase the cap on the manufactured home relocation trust fund from \$1 million to \$3 million. This provision was also included in the Governor's supplemental budget.

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

Sincerely,



Mary Tingertal
Commissioner

May 3, 2018

The Honorable Dan Fabian
Minnesota House of Representatives
Room 365, State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155

The Honorable Rick Hansen
Minnesota House of Representatives
Room 247, State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155

Dear Members of the House of Representatives:

I write in regard to House File 4099, the Omnibus Jobs, Ag, Environment and Natural Resources and State Government bill before you today on the House floor.

On a positive note, I want to convey my thanks to the committee chair for his willingness to discuss issues relating to this bill. In addition, I appreciate that small two technical provisions from the Minnesota Pollution Control Agency's (MPCA) policy are included in the omnibus language. However, I am concerned about several provisions in this bill and urge you to remove them.

Governor Dayton has said he will veto any bill that results in reductions to agency budgets. House File 4099 contains new mandated spending of \$199,000 in FY2019 and \$184,000 every fiscal year thereafter from the Environmental Fund while providing fee revenue to cover only a portion of that cost. This new mandate is for a voluntary deicer applicator certification program. Either the funding source should be the General Fund, or the fees should be allowed to completely cover costs.

In addition, the bill provides a \$300,000 appropriation to the Minnesota Environmental Science and Economic Review Board (MESERB) for "permit review". The MPCA already conducts an extensive public comment process, and MESERB is just one of many joint powers boards that regularly participate in our public comment process. Funding a single stakeholder that represents a specific viewpoint is a bad precedent. We are also concerned that the funds will support work that later could be used against the MPCA in lawsuits—lawsuits that taxpayers will then have to bankroll. MPCA opposes this appropriation.

Several policy items in HF 4099 are also problematic:

- **Wild Rice** – Article 4, Sections 93 and 109-116 are from HF 3280, the wild rice bill. We strongly oppose these provisions because they prohibit the agency from moving forward on protecting wild rice. These provisions prevent the commissioner from using sound, verified science to protect wild rice in the future, and also prohibit the commissioner from enforcing the existing 10 mg/L sulfate water quality standard – which is both state and federally enforceable. Thus, Minnesota is left with **no** water quality standard to protect wild rice. These sections will result in an avalanche of litigation because the agency would be breaking federal law if the current standard is not applied to permits or if the agency does not use the most up-to-date science in writing permits. Another concern is the language applying to all of the standards to protect the use of Minnesota waters for irrigation purposes, which short-circuits an existing rulemaking and threatens the availability of water for agricultural irrigation in the future.
- **Water Fees** – Sections 56, 60-62, and 77 prohibit the agency from increasing fees for a variety of water-protection purposes without legislative approval. Specific fees included are for training water pollution control personnel, certifying water supply system operators and wastewater treatment facility operators, certifying wastewater laboratories, and for issuing water permits for industrial

wastewater facilities, municipal wastewater treatment facilities, stormwater permits for cities, businesses and construction sites, and feedlots. We oppose these provisions because they are redundant. The Legislature has sufficient opportunities for oversight of the agency already including committee hearings, appropriations, reporting requirements, audits by the Legislative Auditor, and direct communication.

- **3M Settlement** – Sections 74-75 relate to the recent 3M court settlement over contamination in the East Metro. I oppose new language added in the Ways and Means Committee, because it sets up a list of priorities and other requirements that are not part of the court settlement. Furthermore, this language deemphasizes some options and takes other options off the table without seeking input from the communities and their residents. Any conflict between the settlement and statute will bring lawsuits, which the taxpayers will have to bankroll. Finally, these lawsuits will delay the movement of settlement funds into East Metro communities.
- **Deicer applicator certification** – Section 82 creates broad immunity for businesses and homeowners who use commercial applicators that have been certified. Because it defines a commercial applicator as “an individual or company and its employees that apply deicer for hire,” Section 83 requires that a commercial applicator company need only have one employee certified to trigger the above immunity. Thus, this immunity language actually is a disincentive for private firms to train more than one of their employees. Immunity should only be available if the deicer is actually applied by a trained individual applicator, and not simply an untrained applicator of a “certified” company. Another concern is the training fee cap of \$250 for a half-day training session. This cap may result in fewer training sessions offered statewide unless we can secure sufficient in-kind donations to defray costs.
- **Demolition Landfills** – Section 107 adds requirements to the permitting process for construction and demolition landfills. Many such landfills across the state are releasing contamination into groundwater at levels that require the agency to act because those levels exceed one or more of the Minnesota Department of Health’s health values for drinking water. We oppose Section 107 (a) because it does not address the drinking water threat and underlying groundwater contamination. It also creates the expectation that permit discussions will not include addressing these significant issues if doing so increases the cost of running a demolition landfill. Section 107 (b) language requests the development of new sampling protocols and new rounds of groundwater sampling, both of which are duplicative of existing processes.
- **Wastewater effluent limitations for industrial permittees** – Section 66 is very similar to language passed by the Legislature last year but was later disapproved by an Administrative Law Judge. The agency was neutral on the 2017 language, which applied ‘regulatory certainty’ provisions to municipal facilities only. Section 66 expands on the 2017 language to include private, industrial facilities. The agency did not support including industrial facilities in 2017 and we still do not support their inclusion in 2018.

Because of the fiscal and policy concerns outlined above, I stand opposed to House File 4099.

Sincerely,



John Linc Stine
Commissioner

cc: Erin Campbell, Governor Dayton’s Office
Stephanie Zawistowski, Governor Dayton’s Office
Anna Henderson, Governor Dayton’s Office

April 17, 2018

Senator Mary Kiffmeyer
Chair, State Government Finance and Elections
Policy Committee
95 University Avenue W., Room 3103
St. Paul, MN 55155

Senator Jim Carlson
Ranking Minority Member, State Government
Finance and Elections Policy Committee
95 University Avenue W., Room 2207
St. Paul, MN 55155

Re: S.F. No. 3764 State Government Finance Omnibus bill (DE-Amendment)

Dear Legislators,

The Department of Labor and Industry (DLI) understands the important and critical issue of affordable housing in Minnesota. However, we believe the language that would require additional legislative review of rulemaking for residential building code changes that result in \$1,000 or more on lines 9.4 to 9.31 will not address this issue and should be removed.

We are concerned with the inclusion of this language in the Senate State Government Finance omnibus bill because it will impose several burdens upon DLI and other agencies, with little to no benefit to the public or the cause of affordable housing for the following reasons:

- 1. Close to all significant cost changes to the residential building code in the past years were due to changes by the legislature and Governor.** DLI has had a minimal impact on changes to the state residential building code that have resulted in increased home costs. Nearly all costly changes in the past eight years to the residential building code were passed on by both the legislature in 2009 (radon mitigation, durability law and window fall protection) and Governor Pawlenty (energy code). This bill language would not address this from happening in the future again.
- 2. The real barriers to more affordable housing are the costs of land, labor, material and municipal land-use regulations.** This was made clear in the bi-partisan Housing Summit and also the Governor's Affordable Housing Task Force this year. Addressing these areas are critical to affordable housing and something DLI has no control over when adopting the residential building code.
- 3) Establishing a \$1,000 threshold is subjective and the result could be contentious.** This language would require DLI to determine if a proposed rule would cost \$1,000 or more. It can be expected this determination will be challenged and the Department will need to hire 1.5 FTE's in order to verify costs of proposed rules to the extent required by this legislation. This

will result in the department spending an additional \$187,200 per fiscal year in staffing resources, which DLI believes is an unnecessary cost to taxpayers.

- 4) It will be difficult to meet the statutory obligation to adopt new model codes within two years.** The department already spends months studying changes in the new code with industry stakeholders. It takes many more months to prepare Rulemaking records and justifications for 6 model codes simultaneously. If DLI determines the proposed rule meets the \$1,000 threshold, the entire rulemaking effort will have to be oriented to coincide with the end of the legislative session. If it is not, there is risk of the rule automatically becoming void after 180 days. Then the process would have to begin over again, resulting in wasted staff time and unnecessary costs to the agency.

DLI shares the concern of ensuring housing is affordable to all Minnesotans. However, innovative and effective ways to address this issue is the approach that should be taken versus unnecessary, costly and ineffective methods that impact an already collaborative approach to implementing the residential building code.

I look forward to working with you and staff as this omnibus bill moves ahead in the process. If you have questions, please contact me, Assistant Commissioner Scott McLellan (scott.mclellan@state.mn.us) or Assistant Commissioner Heather McGannon (heather.mcgannon@state.mn.us)

Sincerely,

A handwritten signature in black ink, appearing to read 'KB' followed by a stylized name, with a long horizontal line extending to the right.

Ken Peterson
Commissioner
Minnesota Department of Labor and Industry