MANAGEMENT AND BUDGET

May 3, 2021

Senator Mary Kiffmeyer
Chair, State Government Finance and Policy and Elections Committee
3103 Senate Office Building
St. Paul, MN 55155

Representative Michael Nelson
Chair, State Government Finance and Elections Committee
585 State Office Building
St. Paul, MN 55155

Re: Minnesota Management and Budget (MMB) Response to the State Government Omnibus Bill (House File 1952)

Dear Senator Kiffmeyer and Representative Nelson:

Thank you for the opportunity to provide additional remarks in response to the State Government Omnibus Bill. As I have noted in my testimony to the Senate and House Committees on State Government, Minnesota Management and Budget serves all Minnesotans by working to ensure state government is effective, transparent, fair, innovative, and always striving to improve.

Innovating for the Benefit of Minnesotans

We are pleased to see several initiatives proposed in the Governor's budget are included in the both the Senate and House positions.

Establishment of Payment Plus
Both the Senate and House positions include the proposal to establish Payment Plus, a rebate program that allows vendors to receive payment through a virtual credit card and provides a rebate to the state. Payment Plus is anticipated to generate more than $500,000 annually in general fund revenue and illustrates MMB's commitment to identify innovative savings.

Returning unspent Odyssey funds to the general fund
Similarly, both the Senate and House positions cancel MMB's unspent Odyssey funds. MMB made necessary upgrades and improvements to the state's budget systems with the Odyssey funds provided in 2015. With no additional work currently planned for the budget systems, MMB agrees that, as a matter of smart fiscal management, the remaining funds should be returned to the general fund, as the intended projects came in under-budget and are now complete.

Disparate Approaches to Maintaining State Government Operations for the Benefit of Minnesotans

Agency operating budgets enable the executive branch to provide critical services to Minnesotans, in accordance with the laws passed by the Legislature. The Senate and House provisions illustrate stark differences in the approach to supporting the operations of state government.

General fund operating budget cuts in Senate Position

There are many aspects of the Senate position that compromise the ability of MMB and other agencies to respond to the needs of Minnesotans. The Senate position cuts MMB's general fund operating budget by $2.129 million (7.8%) annually, compared to the Governor's recommendation for an operating increase of $598,000 in FY 2022 and $1.019 million each year thereafter.

A budget cut of this magnitude would severely and negatively impact the state's strong fiscal management by crippling the systems and personnel responsible for statewide accounting, vendor payments, implementation of the budget, the sale of bonds to finance capital projects, the recruitment and retention of employees, and the compliance with regulatory mandates, legislative reports, and the rigorous oversight necessary to maintain the public trust in state government.

Despite the cut, the bill does not reduce MMB's over 1,800 statutory responsibilities and in fact requires new ones. The Governor's recommendation must be adopted to ensure MMB can maintain current levels of service and effectively carry out the agency's statutory responsibilities.

EBO staffing reduction by six FTEs in the Senate Position

Executive Budget Officers are a critical resource to agencies and to the Legislature: they are integral to the internal controls infrastructure of the state; ensure appropriations are established and spent according to law; provide technical assistance to agencies and the Legislature; approve agency spend plans; and produce the state forecast documents, fund statements, and all budgetary information for the Governor's budget proposals as well as the base budget. This cut would shrink the EBO group by half and hinder the ability to provide thorough and accurate work products, including for the forecast, the base budget and the Governor's budget proposals, as well as to provide valuable oversight of agency fiscal activities.

Providing for State Workers in the House Position

Over the past year, state agency employees have worked tirelessly to serve Minnesotans. We are pleased that the House position takes the Governor's and Lt. Governor's recommendation to increase the operating budgets of state agencies.

This funding provides agencies the necessary funding for projected growth in employee compensation and rising IT costs. Additionally, these funds will allow agencies to maintain current operations and ensure there are not reductions in services.

Specifically, for MMB, this provision increases MMB's operating budget by $598,000 in FY 2022 and $1.019 million each year thereafter. The funding will enable MMB to maintain 3 FTEs in FY 2022 and 7 FTEs in FY 2023 that would have otherwise been lost through attrition.

Impacting Management of Employees

Minnesota state government services exist to meet the needs of Minnesotans , including tsafe roads and bridges, access to vital social services, and support for learning in our schools, colleges, and universities. Arbitrarily linking workforce numbers with the state's population, location of their work, or the ability to hold vacancies to adjust for other costs is contrary to this notion – and we disagree with the approach taken in several elements of both the House and Senate positions.

Geographic limits on state layoffs

The House and the Senate positions both contain a provision restricting layoffs. When faced with budget cuts, state agencies need to make decisions based on what's best for Minnesotans, and not necessarily based on where employees live. We agree that ensuring opportunities for state employment throughout Minnesota is important to deliver services in all corners of the state. However, across-the-board cuts or other statewide staffing mandates undermine state agencies' ability to balance the delivery of required services statewide and maintain the integrity, effectiveness, and safety of their programs. Agencies need to have the flexibility to make strategic reductions to ensure the best outcomes for Minnesota.

Limit growth in state employment based on state population

Additionally, the Senate position contains another provision limiting growth in state employment. Limiting employment growth within an organization by any one measure is neither smart management, nor a best practice. The needs of those we serve, as well as the state and federal mandates we are required to follow, change over time. Agencies need the flexibility to make strategic decisions about how we best deploy our employees.

Moreover, average state employment growth has closely tracked average population growth on an annual basis over the past 10 years. Minnesota's population grew an average of 0.7% each year during 2009-2019, while Executive Branch headcount grew an average of 0.8% each year over the similar 10-year period (FYs 2010-2020). Executive Branch FTEs (full-time equivalents) increased an average of 1.0% annually during fiscal years 2010-2020. (The FTE number is usually higher than headcount because, as an example, one employee could work an FTE of 1.2 if they are working overtime.) This proposal is unnecessary and would restrict agencies from making employment decisions in the best interests of Minnesotans.

State employee contract compensation limits

Limiting compensation and benefits in the manner outlined in the Senate position is not workable for state agencies because compensation and benefit data from labor contract bargaining, which takes place in June of odd numbered years, is needed to complete the spending plans, which are submitted the following month. Spending plans cannot be generated until labor contracts have been negotiated and a pattern for wages has been established. This requirement would also be especially difficult for the State's 24/7 operations which have less flexibility in managing their budgets within appropriation levels due to the need to maintain minimum staffing levels.

Appropriation reductions for unfilled positions

Finally, the Senate position contains a provision reducing agency appropriations if a position is not filled in a defined timeframe. The fact that a position is open for more than 180 days is not an indication that the position is unnecessary, or that the agency is no longer in need of the funding for the position. Several state agency positions are especially hard to fill. For example, the market for highly specialized professionals like psychiatrists and other doctors is so competitive that agencies struggle to attract qualified candidates, especially in rural areas. Just because an agency is unable to hire a doctor after 180 days of trying does not mean that there is no longer a need for those services. In addition, if the position is filled after the 180-day period, the agency would still need funds to pay the salary for that position.

Changes to State Government Operations

Single Audit
Both the Senate and House positions recognize the critical importance of the Single Audit and transfers responsibilities from the Office of the Legislative Auditor (OLA) to MMB. Both positions provide an appropriation to MMB to contract with a qualified auditor; however, neither implements a corresponding reduction to the OLA's budget.

Currently, state agencies are billed through the Statewide Cost Allocation Plan (SWCAP) for audits performed by the OLA. Without reducing the OLA's budget, the OLA could continue to utilize these resources to conduct new audits of state agencies for which the agencies will not have planned or budgeted. Accordingly, it will increase the costs allocated to state agencies that are the subject of these new audits. To protect agencies from incurring unanticipated audit costs, the OLA's budget should be reduced.

SEGIP reverse auction
Both positions establish a protocol for the State Employee Group Insurance Program (SEGIP) to conduct a reverse auction for purchasing pharmacy benefit management (PBM) services. However, the proposed methodology is overly specific in ways that may prevent MMB from conducting a cost-effective auction. The bill's language needs to be less prescriptive to enable negotiation of a cost-effective technology platform and conduct the auction and negotiation expected. Also, because we do not know the outcome of the reverse auction in Minnesota, we would like for this approach to be permissive in the future based on results from this experiment. After the first contract, MMB would produce a report explaining the outcome of the auction, so that the outcome can be evaluated by the Legislature.

Senate Position Reestablishes SAVI program and Continues Gainsharing Program
MMB appreciates the desire to make state government more effective, but the Senate's proposal to revive the State Agency Value Initiative (SAVI) program is not an efficient use of limited state resources. In addition, it continues the Gainsharing program which, at multiple points over the last several years, MMB has notified the legislature that the current law is unworkable in its current format. Even setting aside the challenges of creating and administering an entirely new program without funding, the statute in its existing form conflicts with appropriations laws and existing budget timelines. Until these conflicts are resolved, MMB simply cannot meet this statutory requirement – and we recommend elimination of the current program.

House Position Repeals the Employee Gainsharing Program
In contrast, the House position includes language to eliminate statutory requirements for MMB to create and manage a "gainsharing" program for employees across the enterprise. We agree that it is best to finally eliminate the program.

House Position Provides flexibility for offering a high-deductible plan health plan
The House position includes a provision that allows MMB flexibility in offering a high-deductible health plan to members of the State Employee Group Insurance Program. With this change, MMB has the option, rather than a mandate, to provide such a plan. Having this flexibility allows MMB to focus on higher priority projects to help members to choose the most cost-effective options, improve the health of members, and innovate with contracts to control costs and improve outcomes.

Repeal of the Interagency Agreement and Transfer Report in the House Position
We also appreciate the House's inclusion of the repeal of the Interagency Agreement and Transfer Report requirements under Minn. Stat. § 15.0395. This is a good government measure that will reduce duplicative work without reducing access to information.

Additional Impacts to State Government Operations

Alters the Legislative Advisory Commission and Federal Funds Review Process
The changes to the federal funds review process will make it much more cumbersome and delay our ability to access and deploy federal funds. It will limit the state's ability to respond to emergency and time-sensitive situations. Most federal funds are awarded to the state for clearly prescribed purposes. The current federal funds review process has worked well historically, allowing federal funds to be deployed quickly, even while the Legislature is not in session.

Legislative Budget Office
The Senate's position includes several provisions expanding the authority of the Legislative Budget Office (LBO). We firmly believe that the collaboration between the LBO and state agencies is critical to complete fiscal notes; however, the proposal to permit access to subject matter experts within state agencies should be built on a working relationship between the legislative and executive branches, and not mandated by statute. Mandated access to people and data too greatly expands the authority of the LBO.

Additionally, the Senate's position allows the LBO to complete fiscal notes if state agencies do not complete them. This change is problematic because in many cases, the LBO does not have the expertise to provide an accurate assessment of the fiscal implications of a bill, especially when that bill contemplates a complex change involving multiple agencies. There is a depth of expertise in agencies, particularly in areas such as Human Services, that is essential to producing accurate and reliable fiscal notes. We have consistently relied on this expertise, in consultation and cooperation with the Legislature, to make sure fiscal notes are trusted by all parties. Additionally, the change to limit MMB's access to unofficial fiscal notes would negatively impact the reliability of the unofficial fiscal note process.

Creating Imbalance in Funding the Legislative Branch
The House position proposes an open appropriation for the Legislature, which creates substantial difficulties in forecasting costs. Additionally, this creates an equity issue among executive, judicial, and legislative branches.

Repeals compensation limits for local units of government
Under current law, MMB approves requests from local units of government to exceed the salary cap. MMB supports the repeal of Minn. Stat. § 43A.17, subd. 9.

Cuts to the Minneapolis Employees Retirement Fund (MERF)
The Senate position cuts the state's direct aid payment to the Public Employees Retirement Association (PERA) for MERF state aid, which will require Minneapolis-based local governments to increase contributions by $10 million annually. This position backtracks on the funding agreement reached between the state and local governments in 2015 after MERF was merged into the PERA-General Plan. It also means that these local governments' contributions will increase 48% compared to what they paid in FY 2021. For example, the City of Minneapolis would pay $5.5 million more next year and Minneapolis Public Schools would pay $2.3 million more. Local governments will need to displace other services or increase property taxes to cover the state aid cuts.

Direction related to the Stadium Reserve
The stadium payoff fund and associated directions do not allow for sound fiscal practices. This provision directs the commissioner to segregate funds to pay down stadium bond obligations, regardless of interest rates or market conditions. The mandate to use reserves in a refinancing transaction creates additional investment complications including significant investment restrictions pending use, and it threatens to upset the tri-party balance of the financing deal struck in 2012. The Senate position negates statutory responsibility of the agency to obtain the best financing arrangements for the state, inserts its own judgment in this matter, and creates a complicated and potentially costly set of mandates. Regardless of whether the Legislature chooses to cap the reserve or lets it continue to grow, this approach is problematic.

Overreaching Efforts to Manage the Pandemic

Peacetime Emergency limitations
The state has needed to quickly respond to the COVID-19 Pandemic; this executive discretion is precisely what is authorized under the Minnesota Emergency Management Act. The Stay Home and Stay Safe measures, including closures and capacity restrictions, have been important tools in Minnesota's response to the COVID-19 pandemic. These measures have helped save the lives of thousands of Minnesotans. The exercise of emergency powers to ensure the safety and well-being of Minnesotans needs to be tailored to the unique challenges presented by this pandemic and its economic impacts. It will be important for the Legislature to play a formative role as Minnesota continues to respond and begins the recovery process, and the Administration looks forward to working with the Legislature to develop thoughtful modifications. Simply limiting the Governor's ability to declare an emergency, as provided in the Senate's position, does not achieve that end. Similarly, by limiting future enforcement actions, Senate File 213 would impose an unfair burden on many Minnesota businesses that complied with COVID-19 mitigation measures and helped save lives during the past year.

Federal COVID-19 fund spending limitations
The Senate provision relating to the expenditure of federal funds strips away long-standing direction of the Legislature to maximize use of federal funds and replaces it with requirements for direct appropriations for all new federal grants. This is a significant change in approach for a state that already gets less back from the federal government than other states. Additionally, the Senate's position limits the Governor's authority to receive and spend grants and sets up a hard to resolve debate about which bills are COVID-19 related or not. The potential result will be an expansion of the legislative calendar so that legislators return for votes that could have been managed through consultations and the Legislative Advisory Commission process.

Finally, this provision in the Senate's position adds federal fund reporting requirements on a quarterly basis that are not useful for the budget process, not likely to result in actionable information, and will present significant administrative burdens for state agencies. Reports on spending and obligations are readily available for each and every appropriation, including federal funds. This new reporting requirement goes beyond data and instead requires ongoing "what if" financial analysis to assess what would have occurred absent federal funding. This is a new administrative requirement every three months that would be speculative and cumbersome.

The House position also contains language relating to the expenditure of federal funds. We have concerns with this provision as language does not preclude an over-appropriation of state fiscal recovery funds because there is no limit on the total amount of general fund cancellations to the remaining balance available at any given time.

Despite the concerns outlined, we look forward to working with you to develop a bill that meets our shared objective – serving the people of Minnesota. Thank you for your continued consideration.

Sincerely,

Jim Schowalter

Jim Schowalter
Commissioner

cc: Senator Jeff Howe
Senator Andrew Lang
Senator Jim Carlson
Representative Sandra Masin
Representative Tou Xiong
Representative Emma Greenman
Representative Jim Nash