EMPLOYMENT AND ECONOMIC DEVELOPMENT

May 11, 2022

The Honorable Senator Eric R. Pratt
Chair, Jobs and Economic Growth Finance and Policy
Minnesota Senate Bldg., Room 3219
St. Paul, MN 55155

The Honorable Representative Mohamud Noor
Chair, Workforce and Business Development Finance and Policy Division
379 State Office Building
St. Paul, MN 55155

Dear Chairs Pratt and Noor,

On behalf of the Minnesota Department of Employment and Economic Development (DEED), I am writing to provide feedback on SF SF4091, the Omnibus Jobs, Energy and Commerce bill.

I want to first thank the members of this Conference Committee for being willing to take on the task of negotiating this bill. We stand at a true inflection point in our economy. The investments we make now will have an impact on the next several decades of life in Minnesota. With a historic surplus and unprecedented disruptions in our economy, I believe now is the time for bold action to put Minnesota's economy on a trajectory to be more resilient, equitable, and dynamic. We have an opportunity to accelerate the growth of the Minnesota economy for everyone, and I encourage us all to seize that opportunity and avoid resting on our laurels. Too much is at stake.

This letter is intended to share our administrations views on both House and Senate proposals and is offered in a spirit of collaboration with both bodies of the legislature.

Economic Development

The House and Senate's bills both make investments in Community Energy Transition Grants and while the funding levels differ, this is an area where there is also alignment with the Governor and Lt. Governor's priorities to support communities facing power plant closures.

The House's bill also makes important investments in key areas that will support an equitable recovery. Those items include additional supports for the Main Street Economic Revitalization program, a marketing campaign to market the state of Minnesota to businesses and potential workers, and increased funding to provide grants to organizations that provide small business assistance. It's clear you kept principles of equity at the center of your budget, and these are the kinds of investments that Minnesota should make now to grow our economy. I also appreciate that the Governor's recommended policy changes were included in the House's Omnibus bill with some of those policy changes also included in the Senate's bill.

There are some key programs in the Governor's bill that were not in the House or Senate Omnibus bill related to economic development that I strongly urge you to consider as we go forward. Launch Minnesota, our state's startup support program, should be funded to help businesses scale-up at this critical moment in our economy.

Investments in electric vehicle infrastructure for businesses should also be made to help accelerate our transition to a green economy, creating jobs while helping Minnesota be a leader in clean economic development. Further, I am concerned that there are no investments in the Nonprofit Resiliency and Recovery Fund which would support those nonprofits critical to accelerating an equitable COVID-19 pandemic recovery.

Workforce Development

Workforce challenges are the most pressing concern that I hear from businesses as they scramble to find workers across employment sectors. It is good to see that the House's bill has a shared commitment to making investments in the tech jobs pipeline for youth even if that commitment is smaller than we perceive the need to be.

However, it is concerning to see that both the House and Senate's bills fail to institute the other investments in growing our workforce recommended by the Governor, including investments in adult technology re-skilling training, funding for clean tech workforce training, and resources to modernize DEED's workforce tools. These priorities were carefully put forward after a full review of gaps in the agency's toolkit to address modern workforce challenges shared with us by businesses and workers alike, and we're concerned about our ability to deliver the kind of quality and pressing workforce development services our state needs without funding these priorities. The Senate also fails to make investments in new workers in our economy, be it the creation of the Office of New Americans or agricultural and food processing workers.

Problematic Language – Senate Omnibus Bill

Requirements for Grants to Nonprofit Organizations – 50.1

The agency shares a commitment to ensuring that state taxpayer dollars are spent in ways that are fiscally responsible. DEED takes our responsibility seriously to ensure that grantees, be they direct appropriations or competitive grants, are held to standards that ensure that those taxpayer resources are serving the state of Minnesota well.

However, the bill's language adding requirements for grants to nonprofit organizations is unnecessarily duplicative. When awarding competitive grants, DEED looks to award grants to organizations with a pattern of successful outcomes, clear goals and metrics and a solid plan to achieve the program's goals. Before the agency awards competitive grants, it conducts a risk assessment and uses the information obtained to make funding decisions. And then, throughout the grant period the agency conducts grantee monitoring to ensure taxpayer dollars are being spent in accordance with state laws and the grant contract.

There are a number of concerns with this provision:

- It is unclear what the definition is of a "recipient of a future grant or direct appropriation" and how the agency would determine who future direct grant or direct appropriation recipients would be in advance of legislative appropriations or competitive grant rounds.
- The Internal Revenue Service Form 990 already requires the submission of the information listed in Section 10, and this information is already public.
- This language appears to duplicate information that is already public, and the language is unclear on which organizations would be required to resubmit their Form 990 to DEED for these purposes.

Pay for Performance – 59.1

The bill language moves a significant proportion of the workforce development fund from direct appropriations to a Pay for Performance model starting in FY24 at 25 percent and escalating to 50 percent of the workforce development funds in FY25. The agency has concerns about this change given marketplace dynamics.

DEED believes the Pay for Performance model generally speaking is a good one and is something we should further develop to ensure it has its intended effect; putting excellent performance at the center of our expectations and incentives when it comes to our grantees. However, continuing to build a strong model here requires a thoughtful and careful approach. For example, until FY23, the Pay for Performance fee structure was only used by one nonprofit, and that organization used non-governmental resources for its operating budget.

Last session, four additional nonprofits were appropriated funds in the Pay for Performance model, and the agency is still working with those organizations to identify areas where we may need to make changes to the Pay for Performance fee structure to allow all organizations, especially smaller organizations, to sustain their operations and serve a wider audience through this program. Accordingly, the agency's proposed changes to the fee structure are an attempt to address some of those concerns, but many of those changes are not included in the Omnibus bill.

Unless the program is adjusted in ways that ensure that these job training program providers can continue to provide quality training programs with a Pay for Performance model, this change could be a challenge. The agency cautions this Committee about moving so quickly to the Pay for Performance model for such a significant proportion of the grantees without also making other changes to the program. We are concerned that this could be unworkable in a time where addressing the workforce shortage is something that the state needs to stay laser-focused on.

Unemployment Insurance Overpayment Report – 56.32

The Department shares the Senate's concerns around malicious actors attempting to gain illegitimate benefits through the Unemployment Insurance system. As you are aware, state Unemployment Insurance (UI) programs are overseen by the U.S. Department of Labor (USDOL) and are required to provide a series of reports to USDOL on overpayments and fraud prevention. Audit processes mandated by USDOL test vulnerabilities to both individual fraud and multi-actor fraud schemes.

Some technical points on the Senate proposal:

- The proposed language does not include definitions of "identity theft," "imposters," "hijackers," "legitimate applicant," "other fraud attempt," and "suspected fraud attempt," which are not terms otherwise defined in statute.
- In particular, "suspected fraud attempt" is a broad term which could encompass a wide variety of activities. Further clarification would be needed to provide meaningful reporting.
- Much of the data sought through this proposal already exists through existing reports to USDOL.
- Federal standards prohibit state Unemployment Insurance programs from using federal funds to perform state activities outside of those specifically allowed by USDOL. Funding to complete this reporting would be needed to ensure program compliance.
- Overpayments are also a normal part of the UI appeals process and are most often not associated with fraud. Overpayments are also issued for periods of time that range from weeks to years in the past. Comparisons between the amount paid in the prior year to the amount overpaid for the same period

can lead to erroneous conclusions as the comparison is not fully valid. Furthermore, some overpayments are done purely via accounting purposes and are immediately offset by future or past payments.

- Collating all overpayments for the previous calendar year by January 15 is not feasible. Overpayments are often identified weeks or months after they occur through the product of investigations or further review. July 1 would be a more realistic date to collect full information on the previous calendar year.

House Omnibus Bill – Worker Supports

The Department appreciates that the House bill includes a number of key supports for workers including Paid Family Medical Leave, which will provide Minnesotans with a safety net when they or their family have a serious medical issue, and the Office of New Americans, which will support immigrant and refugee integration, reduce barriers to employment, and improve connections between employers and job seekers. The Department also shares the House perspective that advancing unemployment insurance payments to hourly school workers is long overdue. Particularly at a time of significant workforce shortages in schools, in which so many of our hourly workers can find more lucrative jobs in the market, we are concerned about the future of this workforce and believe extending UI benefits to them is smart economics, in addition to being the right thing to do.

We do have some technical edits to the structure of the House proposal that would need to be addressed for this proposal to be properly administered:

School Reimbursement Account – lines 120.9 – 120.20

- The language in this section needs to clarify the dates the school reimbursement program is intended to be effective including clearly specifying the periods of time which would qualify as being reimbursable, i.e., what is the earliest quarter of charges for which a school can receive this reimbursement. At present, the language is unclear if it is intended to apply only to quarters from July 1, 2022 forward, or to allow for quarters prior to that date to be reimbursed.

Credited Language – line 120.23

- Benefit payments are not "credited", the word should be "chargeable." Payments are credited and charges accrue in the UI program. Additionally, the correct statutory reference here is 268.047 which is the section of statute where the charging rules are set forth.

Share and Transmit language – line 120.24

- It is unclear what is meant by "share" in this provision. The word "share" should be struck as the word "transmit" is sufficient unless this word is intended to convey additional action or meaning. The first quarter that this provision applies must also be specified in this section to ensure that it is clearly conveyed when this provision applies. There should also be language indicating an end-date for this program when the funding runs out.

Changes to UI Data Access – line 119.17

- The Department of Education does not require access to UI data to administer school reimbursement account payments. The language at 119.17 should be struck. The inclusion of additional access to UI data creates more opportunities for private data to be released inadvertently and should always be carefully considered. In this case, this is unnecessary as the requisite information is already transmitted by DEED to the Department of Education as required in 268.193.

Thank you again for taking on this important work. I know that the Conference Committee has challenging work ahead, and DEED is committed to working side-by-side with you. Thank you in advance for your consideration of this feedback.

Please do not hesitate to contact me or Darielle Dannen (darielle.dannen@state.mn.us) with any questions.

Regards,

Steve Grove
Commissioner