

May 3, 2021

The Honorable Mary Kiffmeyer, Chair
Senate State Government Finance and Policy and Elections Committee
3103 Minnesota Senate Bldg.
Saint Paul, MN 55155

The Honorable Mike Nelson, Chair
House State Government Finance and Elections Committee
585 Rev. Dr. Martin Luther King Jr. Blvd.
Saint Paul, MN 55155

Dear Chairs Kiffmeyer and Nelson,

As the conference committee convenes, I look forward to working with you to create a budget that works for all Minnesotans and creates efficient and accountable state government.

Governor Walz's budget recommendations fund the essential operations of state government. These are investments that directly impact the livelihood of Minnesotans and I appreciate that the House funds the Governor's recommendations for the Department of Administration (Admin). These are modest increases that will reimagine how and where the state does work, maintain cherished public infrastructure, and provide better service to Minnesota businesses looking to contract with government agencies.

I am grateful that both the House and Senate recognize the need for an increase to In Lieu of Rent. This is the only source of funding for operations and maintenance of the public, legislative, and ceremonial spaces on the Capitol Complex and the funding is critical to maintain the expected standard of care for the included buildings.

I appreciate that both the Senate and the House included several of our proposed technical policy changes that will assist Admin's current work and correct obsolete or inaccurate statutes, such as updates related to the 2018 move of the State Historic Preservation Office (SHPO) to Admin. However, the Senate made several modifications to Admin's policy bill and we respectfully request the Senate reconsider the changes and support aligning with our original proposal. Further, I encourage the conference committee to adopt all of Admin's policy changes.

The House language funds critical Governor's budget recommendations, including appropriations to provide relief to the state parking fund and to cover a portion of projected compensation increases, health insurance, rent, and IT costs. The bill also provides funding for a comprehensive real estate strategic plan for locating state agencies and support of agency space consolidation and relocation, allowing us to reimagine what the future of work will look like for state government post-pandemic.

The House makes strategic investments by ensuring that state dollars have the most impact in leveraging federal funds from the U.S. Department of Defense for the Procurement Technical Assistance

Center, which focuses on building capacity for veteran-owned, economically disadvantaged, and targeted group businesses. The House bill also addresses Minnesota's economic and health disparities through its investments in promoting greater equity in public grant awards and management.

However, Admin does have some concerns and suggestions to improve both versions of the bill.

Admin suggests a modification to the House's prohibition on contracts with vendors who use forced labor from the Uyghur region of China. These types of prohibitions are extremely difficult and resource-intensive to administer as Admin would need to have insight into the complete supply chain of every company that enters a State contract over a certain dollar amount. A preferred alternative that would still achieve the objective would be to have vendors certify or attest to compliance as part of the contract or solicitation process. This resolves the state's administrative burden and because vendors can be debarred for providing false information, there is a strong incentive to be truthful in the vendor's representations to the state. Further, it is helpful to increase the monetary threshold to \$50,000. This is the formal contracting level which would require a request for proposal and have a written contract where this prohibition could be included. Admin also suggests adding the ability to waive the provision if there ever were a circumstance, such as a single source situation, where the State had no other contracting option. This exception would align the statute with other similar contracting prohibitions.

Unfortunately, there are several concerning provisions contained within the Senate language. The budget cuts would make it impossible for the department to effectively deliver its statutorily mandated services. The permanent \$300,000 general fund cut is not only unsustainable but is coupled with provisions that require the department to assume operations of nearly half of the state's historic sites. The reduction in fiscal year 2021 represents costs avoided due to the hiring freeze and does not allow Admin to provide the level of service that Minnesotans expect long-term. Additionally, without debt service relief for the parking fund, parking rates for state employees and Capitol Complex visitors will likely increase to cover fixed costs associated with operations and maintenance for the facilities.

The Senate language transfers management of nearly half of the historic sites in Minnesota to SHPO from the Minnesota Historical Society. Such a duty is outside of the SHPO's expertise and its federally and state mandated duties. There is also no funding included to support this major shift of control and operations. Additionally, there is another provision that requires "notice" to SHPO if there is an historic property going through the surplus process. Current law (M.S. 138.655, subd. 2) dictates that a land or property transfer is an "undertaking that will affect historically designated or listed properties" and already includes review and consultation with SHPO to avoid or mitigate potentially adverse effects which may result from state land or property transfer of a designated historic property out of state ownership. This provision will only confuse current law.

I have heard the Senate's concerns regarding the State's ownership of the 1415 cold storage facility as well as the desire of some to see the Christopher Columbus statue returned to the Minnesota State Capitol Upper Mall. In both cases, there are processes currently underway to determine solutions for both these issues. I respectfully ask that the committee allow those processes to run their course before the Legislature acts on either of them.

The Senate mandates Admin to charge for the depreciation of electric vehicle charging equipment. This equipment has already been fully expensed so there will be no depreciation, therefore this provision is not necessary.

I strongly caution against requiring the use of a reverse auction procurement method for the pharmacy benefit manager. The reverse auction process requires rigid specifications from which all responders submit pricing. This methodology does not allow for proposals that add innovation or address unique supply chain constraints. The existing best value procurement method allows for agility, negotiations, and creative solutions proposed by the vendor community.

The state currently can use reverse auction if it is determined that method will yield the best outcome. We previously utilized this procurement method extensively in the early 2000s. Based on this extensive experience, Admin has found that the primary advantages of a reverse auction can be obtained through the use of Best and Final Offers and other negotiation techniques that do not entail the damaging attributes associated with reverse auctions. Key lessons learned from extensive use of reverse auctions were the process often did not result in the lowest cost available; vendor participation fell off over time (more than 100 auctions were cancelled due to insufficient vendor participation); and Minnesota experienced a number of contract defaults by vendors that were unable to honor the bid commitments they made through the on-line process.

Reverse auctions have shown to work best for commodities with clear specifications, particularly small contracts with limited complexity. Reverse auctions have not worked well for complex professional services or contracts that have unique specifications or many variables.

Again, thank you for your consideration and I look forward to working with you and the other conferees throughout the conference committee process.

Sincerely,

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

Alice Roberts-Davis
Commissioner

cc: Representative Melissa Hortman, Speaker
Senator Paul Gazelka, Majority Leader
Omnibus State Government Bill Conferees