February 7, 2017 ***Via Email Only***

The Honorable Paul Torkelson, Chair

House Transportation Finance Committee

381 State Office Building

Saint Paul, MN 55155

 Dear Chair Torkelson:

Here is the information you requested in your January 25 letter.

1. **Program and Budget Activity Detail**

**A detailed explanation of current expenditures, for each program, budget activity and fund. Please provide FY 2016-17 actual and expected expenditures, broken down by fund and object code, with brief explanations as needed.**

This information is available beginning on page 4 in Governor’ Dayton’s budget recommendations at <https://mn.gov/mmb-stat/documents/budget/2018-19-biennial-budget-books/governors-recommendations-january-2017/transportation-department.pdf>

1. **List of all Special Revenue Funds or Fee-Dedicated Accounts, including the legal citation and purpose of the dedicated funds.**

This information is available beginning on page 6 in Governor’ Dayton’s budget recommendations at <https://mn.gov/mmb-stat/documents/budget/2018-19-biennial-budget-books/governors-recommendations-january-2017/transportation-department.pdf> and in the attachment titled “House Transportation Info Request Data.”

1. **List of all federal funds by program area.**

This information is available beginning on page 131 in Governor’ Dayton’s budget recommendations at <https://mn.gov/mmb-stat/documents/budget/2018-19-biennial-budget-books/governors-recommendations-january-2017/transportation-department.pdf>

1. **Identify all statutory and open appropriations by fund, with legal citation and purpose.**

Please see the attachment titled “House Transportation Info Request Data.”

1. **Detail the Governor’s proposed budget for 2018/19 versus base funding for each Department within your agency as well as details any tails for 2020/21 biennium.**

This information is available beginning on page 58 in Governor’ Dayton’s budget recommendations at <https://mn.gov/mmb-stat/documents/budget/2018-19-biennial-budget-books/governors-recommendations-january-2017/transportation-department.pdf>

1. **Please detail annual and total consulting contracts since 2008 paid for State Road Construction (SRC) account expenditures and other state road appropriation category accounts.**

Please see the attachment titled “SRC Consultant Spend, FY 2008-17.”

1. **Charge-backs Imposed by Other State Agencies**
2. **Identify the state agency or agencies or Constitutional Office**
	1. **Current rate or charge back**
	2. **Amount charged each fiscal year from FY 2014-2017**
	3. **Service delivered to state agency or Constitutional Office**
	4. **Identify the fund (general, special revenue or federal) used to pay the rate or charge back imposed by state agency or Constitutional Office**

Please see the attachment titled “House Transportation Info Request Data.”

1. **Other Information**
2. **Please indicate if the agency is engaged or planning any rulemaking activities and, if so, the status of that rulemaking.**

MnDOT is engaged in rulemaking for amendments to Minnesota Rules, Chapter 8820 – Local State-Aid Route Standards, Financing. The rule is currently in draft form and the agency is seeking comments from stakeholders.

MnDOT is considering amendments to the following three rule chapters:

* Chapter 8835 – Public Transit
* Chapter 8840 – Transportation for Elderly, Disabled
* Chapter 8880 –  Limousine Service, Permit Requirements

No formal rulemaking actions have taken place regarding the above three rule chapters. However, discussions have taken place internally regarding the need to update the chapters. There is the potential for MnDOT to start rulemaking on one or more of the above rule chapters during this year.

1. **Please detail the agency's use of state-owned passenger vehicles and provide the Committee with a description of how the vehicles are utilized by the agency and the assignment of vehicle, if any are utilized by the agency.**

MnDOT has 292 passenger vehicles. This includes both sedans and mini-vans whose primary function is to move people throughout the state, such as moving staff to meetings, and for things like bridge inspections, commercial truck and bus safety, highway construction management oversight, highway system planning, radio towers and communications, and traffic management.

If we broaden the definition of a passenger vehicle to include all Class 1 and 2 vehicles, which includes pickup trucks and full-sized vans, the total number of units is 1,596. In addition to the duties listed above, these vehicles are used for such activities as drainage systems inspection and maintenance, pavement and surface repair, property management, sign inspection and maintenance, roadway structures maintenance, trunk highway system preservation and vegetation management.

**In addition, please submit seven-year information including the number vehicles utilized by each department or section of the agency and the assignment of vehicles to employees.**

While MnDOT has roughly 12,000 individual units within its fleet management database, many of those identify components such as a snow plow truck’s front plow, wing plow and sander for asset tracking purposes. MnDOT’s performance metrics concentrate on the on-road fleet as well as some of the off-road heavy equipment. That number is currently 3,361 units. This includes all of the passenger vehicles, as well as the larger trucks such as snow plows, aerial bucket trucks, guardrail trucks and off-road equipment such as wheel loaders, motor graders and mower tractors. (See *Table 1* and *Table 2* below.)

*Table 1*

*Table 2*

MnDOT tracks vehicles which are either classified as “assigned” or “take home,” in compliance with MnDOT policies and procedures as well as state statute. In the fourth quarter of calendar year 2016, the number of units listed as either “assigned” (228) or deemed “take home” (140) was 368. Previous years are listed below as well. (See *Table 3* below.)

 *Table 3*

1. **Please detail any pending lawsuits against the agency or any lawsuits initiated by the agency, including union grievances. Provide a description of the lawsuit, a list of the parties of each lawsuit, the Court jurisdiction, any timelines, and the estimated cost of each lawsuit.**

MnDOT is currently the defendant in 14 matters filed with state or federal courts. The department has also been named as a potentially injured party in a single *qui tam* action filed in federal court (a *qui tam* action is a lawsuit brought by a third party on behalf of the government alleging a harm to the government). There are no current cases in which MnDOT has sued any party in state or federal court. Every case is unique and it is impossible to accurately estimate the course litigation will follow or identify how it will end. Nor is it possible to accurately estimate the timeline or cost of the cases identified below.

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| --- | --- | --- |
| **Plaintiff** | **Summary** | **Jurisdiction** |
| Ursula Wachowiak  | Plaintiff alleges MnDOT contributed to the injuries she sustained during a crash. | Ramsey County District Court |
| Joshua Harman | Qui Tam action against Trinity Industries citing Minnesota False Claims statutes. Plaintiff alleges product is unsafe and improperly safety tested.  | Federal Court  |
| Frank & Bonnie Kottschade  | Complex litigation related to the construction of TH 52 in Rochester. | Minnesota Court of Appeals |
| Cannon Falls Oil Co.  | Complex litigation related to the construction of TH 52 in Rochester. | Minnesota Court of Appeals |
| Mark Sand & Gravel  | Contract dispute regarding site conditions. | Becker County District Court |
| Vermillion State Bank  | Mandamus action related to the construction of TH 52. | Minnesota Court of Appeals |
| Katelyn Ross  | Plaintiff alleges MnDOT contributed to the injuries she sustained during a crash. | Ramsey County District Court |
| Abu Kamara  | MN Department of Human Services employee Abu Kamara has commenced a putative collective and class action lawsuit against the State of Minnesota, including MnDOT and other state agencies. | Federal Court  |
| Minn-Dak | 2011 state government shutdown related litigation. | Ramsey County District Court |
| B&D Property Holdings and Steven and Jody Looney | Lawsuit against the City of St. Louis Park and MnDOT related to the reconstruction of TH 7.  | Hennepin County District Court |
| Larry and Penelope Aanenson | Litigation related to the 2014 construction of TH 62 in Fulda Minnesota.  | Murray County District Court |
| Trent Olson   | Plaintiff alleges Minnesota and Shafer Contracting are responsible for injuries sustained during a bicycle crash.   | Dakota County District Court |
| Tyler Morgan | Plaintiff alleges MnDOT contributed to the injuries he sustained during a crash. | Freeborn County District Court |
| Minnesota Meeting Rooms, Inc. (MMRI)  | Mandamus action related to the construction of TH 62 in Minneapolis.  | Hennepin County District Court |
| PCH Development, LLC and Paws, Claws, and Hooves Pet Boarding, LLC  | Mandamus action related to the potential future construction of the TH 101. | Carver County District Court |

In addition to the litigation identified above, using a five-year average, MnDOT acquires 92 parcels through condemnation per year at an average annual cost of $21.57 million. This does not include attorney’s fees, expert witness fees or interest.

Below are pending grievances related to contract language:

* 8 regarding overtime
* 5 regarding the shutdown
* 3 regarding expense reimbursement
* 1 regarding shift differential language
* 1 regarding the promotion of a less senior employee
* 1 regarding the denial of vacation leave
* 1 where the electrician received an inequity adjustment and the highway signal technician did not
* 2 regarding reassignment of employees from one truck station to another within the district
* 1 regarding the back pay on a reallocation
* 1 where the district denied consideration for a lateral
* 1 regarding the length of service credit at the time of hire
* 1 where an employee was removed from the on-call list for one year due to performance

Information on grievances for disciplinary action does not become public data until the final disposition (settlement or arbitration), per Minn. Stat. 13.43.

Thank you for the opportunity to provide this information about MnDOT’s budget and other agency activities. Please contact Scott Peterson at scott.r.peterson@state.mn.us or 651-366-4817 if you have any additional questions.

Sincerely,



Charles A. Zelle

Commissioner