House Research
Act Summary

CHAPTER: 1 - VETOED **SESSION:** 2011 Regular Session

TOPIC: State budget reductions

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Overview

This vetoed act makes reductions to general fund appropriations in fiscal year 2011, reduces base appropriations for fiscal years 2012 and 2013, makes permanent temporary spending reductions in health and human services and revenue saving initiatives originally enacted for a single year. It conforms Minnesota's taxes to most federal tax changes enacted since March 18, 2010.

Section

Article 1: Higher Education

Overview

This article reduces general fund base appropriations, set in law, for the University of Minnesota (U of M) and the Minnesota State Colleges and Universities (MnSCU) for fiscal years 2012 and 2013. General fund appropriations for the U of M and MnSCU for fiscal year 2011 are at the 2006 level, consistent with the requirements of receipt of the American Recovery and Reinvestment Act.

1 **Board of Trustees of the Minnesota State Colleges and Universities.** Reduces the base appropriation for fiscal years 2012 and 2013 from $580.8 million to $532.9 million with an

immediate effective date.

2 **Board of Regents of the University of Minnesota.** Reduces the base appropriation for fiscal years 2012 and 2013 from $578.4 million to $533.8 million with an immediate effective date.

Article 2: Human Services

Overview

This article reduces general fund appropriations for certain Department of Human Services programs for fiscal years 2012 and 2013.

1 **Reimbursement for basic care services.** Amends § 256B.766. Makes permanent a 4.5 percent reimbursement reduction for MA basic care services.

2 **Department of Human Services.** Makes reductions in fiscal years 2012 and 2013 to certain grants and other programs including children and community services grants, emergency general assistance, and emergency Minnesota Supplemental Aid.

Article 3: State Government Reductions

Overview

Section 1 requires the commissioner of management and budget to allocate $100 million in general fund appropriation reductions in fiscal year 2011 to the executive branch, excluding listed expenditure categories. Section 2 specifies reductions for the legislature and certain constitutional officers.

1 **Fiscal year 2011 reductions.** Directs the MMB commissioner to reduce executive branch spending in fiscal year 2011 by $100 million and to allocate that reduction to the agencies of the executive branch. No reductions may be allocated to general or special education funding or to other specified spending including military and veterans spending, financial aid, disaster relief, training programs, and correctional facilities. The University of Minnesota and the Minnesota State Colleges and Universities funding may not be further reduced in fiscal year 2011. Requires the commissioner to report to the legislature on the agency reductions that apply only to fiscal year 2011.

2 **Reductions, legislature, constitutional officers.** Makes reductions in general fund appropriations in fiscal year 2011 for the house of representatives, the senate, the state auditor, the attorney general, and the secretary of state.

Article 4: Tax Aids and Credits

Overview

This article makes the following temporary revenue savings initiatives enacted for one year in the 2010 1st special session permanent and ongoing:

- reduces the percent of rent constituting property taxes for renter property tax refund claims from 19 percent to 15 percent, effective for claims based on rent paid in 2010 and following years;
- repeals the political contribution refund; and
- limits payments to individual claimants under the sustainable forest incentive program.

In addition it extends for 2 years - Pay 2011 and 2012, temporary aid and credit reductions to counties and cities as follows:

- For Pay 2011 and Pay 2012 only, each county and city will get a CPA or LGA payment equal to the lesser of the amount received in 2010, or the amount certified for 2011.
- For Pay 2011 and 2012 only, a county or city's market value credit reimbursement amount is equal to the lesser of the amount received in 2010, or the amount calculated for payment in 2011 or 2012.

It also makes a correction to aid reductions to the city of Houston.

1 **Political contribution refund.** Strikes a reference to the political contribution refund, which is repealed in section 14.

2 **Credit reduction, towns.** Recodifies in section 3 the permanent annual reduction in county and city market value credit reimbursements contained in Laws 2010, 1st Special Session chapter 1. The permanent reduction to town market value credit reimbursements of $5 million per year remains in this section of law.

3 **Credit reductions and limitations, counties and cities.** Paragraph (a) provides for a decrease in market value credit reimbursements to counties and cities for Pay 2011 and 2012. The reimbursement amounts are limited to the lesser of the amount paid to the jurisdiction in 2010 after 2010 reductions, or the amount it is to be paid under the Pay 2011 calculation. The estimated amount of the Pay 2011 reimbursement payments to counties is reduced from $133 million to $77 million under this provision. The estimated amount of the Pay 2011 reimbursement payments to cities is reduced from $60 million to $12 million under this provision.

Paragraph (b) reinstates the permanent annual reduction in market value credit reimbursements for counties and cities contained in Laws 2010, 1st Special Session chapter1, beginning with Pay 2013. These reimbursement reductions total about $27 million annually, and actually reduce reimbursements to certain cities only; no counties are affected.

4 **Political contribution refund; conforming changes.** Eliminates a reference to the political contribution refund, which is repealed in section 14.

5 **Political contribution refund; conforming changes.** Strikes a definition of the term "taxpayer" that is used in determination of the political contribution refund, which is repealed in section 14.

6 **Renter property tax refund; rent constituting property taxes.** Reduces the percent of rent constituting property taxes used in calculating the property tax refund for renters from 19 percent to 15 percent. Effective for refund claims based on rent paid in 2010 and following years.

The percent of rent constituting property taxes was reduced from 19 percent to 15 percent for 2009 refunds only under the June 2009 unallotment. This reduction was subsequently enacted into law in Laws 2010, 1st Special Session chapter 1.

7 **Renter property tax refund; manufactured homes.** Reduces the percent of rent constituting property taxes for rent paid on the site on which a manufactured home or park trailer taxed as a manufactured home is located from 19 percent to 15 percent. Effective for refund claims based on rent paid in 2010 and following years.

8 **Calculation of incentive payment (sustainable forest initiative program).** Permanently reduces the sustainable forest incentive refund rate to $7.75 per acre beginning in calendar year 2011.

9 **Aid payments in 2011 and 2012 (counties).** Limits the total county program aid (CPA) paid to each county in 2011 and 2012 to the lesser of its paid CPA in 2010, after reductions, or the amount it was certified to receive in Pay 2011. Total CPA payments in 2011 and 2012 are reduced from $197 million to $161 million.

10 **City aid distribution.** Changes the amount used to calculate maximum increases and decreases to individual city LGA payments for Pay 2013 only. The base used in the calculation will be the Pay 2011 certified LGA amount rather than the certified amount from the previous year. The calculation formulas are predicated on the assumption that the base has a similar appropriation level as the year for which aid is being calculated.

11 **Aid payments in 2011 and 2012 (cities).** Limits the LGA amount paid to each city in 2011 and 2012 to the lesser of its paid LGA in 2010, after reductions, or the amount it was certified to receive in Pay 2011. Total LGA payments in 2011and 2012 are reduced from $527 million to $425 million.

The exception is the city of Houston whose 2011 aid will not be reduced. Its 2012 aid will be equal to its 2011 formula aid amount of $331,000. This city is the only city with a 2008 population under 1,000 that was subject to the 2008, 2009, and 2010 governor's cuts. This special provision repays the 2008-2010 aid reductions as authorized in the 2010 session and then treats it like other cities with a population under 1,000 for pay 2012 aids.

12 **Appropriation.** Returns the LGA and CPA appropriations to current law levels beginning with aids payable in 2013. The annual city LGA appropriation returns to $527 million. The annual CPA appropriation returns to $197.7 million.

13 **Administration of 2011 property tax refund claims; renters.** Directs the commissioner of revenue to recalculate claims for 2011 renter property tax refunds to reflect the reduction in the percent of rent constituting property taxes from 19 percent to 15 percent provided in sections 6 and 7. Requires the commissioner to notify claimants whose refunds are recalculated that the recalculation was mandated by action of the 2011 legislature.

Background. By January 31, 2011, landlords are required to issue form CRP to renters for use in claiming the renter property tax refund. Form CRP reports on line 1 the dollar amount of rent paid, and on line 3 the rent multiplied by the 19 percent, which equals the percent constituting property taxes. Renters are instructed to use the amount on line 3 in filling out form M-1PR, the claim form for property tax refunds. The Department of Revenue would then recalculate the M-1PR claim as if the line 3 amount had been rent multiplied by 15 percent, rather than 19 percent.

14 **Repealer.** Repeals the political contribution refund program, the section of the data practices law relating to political contribution refunds, and the section providing for refund receipts. Effective for contributions made after June 30, 2011.

Article 5: Federal Update

Overview

Conforms Minnesota's individual income tax and corporate franchise tax to most federal changes enacted since March 18, 2010. This article would adopt on an ongoing basis changes enacted in the Patient Protection and Affordable Care Act of 2010, the Health Care and Education Reconciliation Act of 2010, and the Small Business Jobs Act of 2010(SBJA), and would also adopt for tax year 2010 changes enacted in the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (TRUIRJCA). The article does not address provisions of TRUIRJCA that affect tax year 2011 and following years, including the two year extension to tax years 2011 and 2012 of provisions enacted in the 2001 and 2003 federal tax laws, sometimes referred to as "the Bush tax cuts," and the extension of increased section 179 expensing to tax year 2012.

Some of the principal changes Minnesota would conform to are:

- Extending the income exclusion for health insurance to benefits for adult children up to age 26
- Disallowing reimbursement from health savings accounts and similar accounts for over-the-counter medicines
- Increased section 179 expensing amounts for tax year 2011
- Extending the authority for individuals age 701/2 or older to transfer up to $100,000 from an IRA or Roth IRA directly to a qualified charity to tax years 2010 and 2011
- Extends to tax years 2010 and 2012 various provisions related to depreciation and expensing

Minnesota would not conform to the following provisions:

- Increase in section 179 expensing for tax year 2010
- Extension of 50 percent bonus depreciation to tax years 2010 to 2013, and increased 100 percent bonus depreciation for property placed in service after September 8, 2010, and before January 1, 2012
- Extension of the higher education tuition deduction to tax year 2010
- Extension of the educator classroom expense deduction to tax year 2010
- Extension of the enhanced deduction of charitable contributions of computers to tax year 2010

1 **Update of administrative tax provisions.** Adopts federal tax administrative provisions made between March 18, 2010, and September 27, 2010, that Minnesota references for state tax administration purposes under chapter 289A, and adopts federal changes made in TRUIRJCA for tax year 2010 only. The new federal laws did not change federal provisions that Minnesota provisions refer to in chapter 289A.

Effective date: day following final enactment

2 **Update to federal definition of taxable income.** Adopts all of the federal changes to taxable income effective when the federal changes became effective, with the following exceptions:

- Increased section 179 expensing for tax year 2010 (does conform to the increased amounts provided in SBJA for tax year 2011)

- 50 percent bonus depreciation for tax years 2011 to 2013, with temporary 100 percent bonus depreciation for property placed in service after September 8, 2010, and before January 1, 2012

- Three deductions extended to tax years 2010 and 2011 in TRUIRJCA:

  - higher education tuition expense deduction

  - teacher classroom expense deduction of up to $250

  - enhanced deduction for charitable contributions of computers

The four new federal laws and important changes were:

The Patient Protection and Affordable Care Act of 2010, Public Law 111-148, enacted March 23, 2010, and **The Health Care and Education Reconciliation Act of 2010,** Public Law 111-152, enacted March 30, 2010, made the following major changes:

- Extended the income exclusion for health insurance to benefits for adult children up to and including age 26, effective for plan years beginning on or after September 23, 2010. Under prior federal law, the exclusion was limited to coverage for dependents who were under age 19, students under age 24, or permanently and totally disabled.

- Disallowed reimbursement from health savings accounts and similar accounts for over-the-counter medicines, effective tax year 2011.

- Increased the maximum exclusion for employer-provided adoption assistance to $13,170 for tax year 2010, and extending the increased amount adjusted for inflation to tax year 2011.

- Allowed an income exclusion for state loan forgiveness programs for health care professionals intended to increase the availability of health professionals in underserved areas, retroactive to tax year 2009.

- Increased the floor on deductibility of medical expenses by itemizers from 7.5 percent to 10 percent of adjusted gross income, effective in tax year 2013.

- Codified the economic substance doctrine, requiring transactions to which the doctrine is relevant to change the taxpayer's economic position in a meaningful way, excepting the effects on federal income tax liability, and requiring the taxpayer to have a substantial purpose, excepting the corresponding change in federal income tax liability, from entering into the transaction.

The Small Business Jobs Act of 2010, Public Law 111-240, enacted September 27, 2010, made the following major changes:

- Increases the 75 percent exclusion for the gain on sale of qualified small business stock held for more than five years for stock acquired after February 18, 2009, and before January 1, 2011 to 100 percent for stock acquired after September 27, 2010 and before January 1, 2011. The exclusion will revert to 50 percent for stock acquired on or after January 1, 2011.

- Reduces the holding period for assets of S corporations that converted from C corporations from ten years to five years, for tax year 2011 only, allowing S corporations to sell assets held more than five years without being taxed on built-in gains. Effective for tax year 2011 only.

- Increases the section 179 expensing amount and phase-out threshold for tax years 2010 and 2011 to $500,000 and $2 million *(Minnesota would not conform retroactively to the extension of increased section 179 amounts for tax year 2010, but would conform prospectively for tax year 2011. For tax year 2010, Minnesota would retain its current law requirement that taxpayers add-back to taxable income 80 percent of the expensing amount in the first tax year, and then subtract one-fifth of the amount added back in each of the five following tax years).*

- Extends 50 percent bonus depreciation amounts to tax year 2010 *(Minnesota would not conform to the extension of bonus depreciation but would retain its current law requirement that taxpayers add-back to taxable income 80 percent of the additional depreciation amount in the first tax year, and then subtract one-fifth of the amount added back in each of the five following tax years).*

- Provides that the percentage completion method for long-term contracts, which requires that income be recognized when related costs are recognized, is calculated without regard to bonus depreciation amounts claimed. This prevents bonus depreciation, which shifts costs into the first year of a contract, from also shifting income into the first year of the contract. Effective for tax year 2010 only.

- Increases the amount of start-up expenditures that can be directly expensed in the first year of a start-up, from $5,000 to $10,000, with the threshold for the dollar-for-dollar phaseout of the allowance increased from $50,000 to $60,000, effective beginning in tax year 2010.

- Removes cell phones and similar devices from "listed property," so that the employer deduction for cell phone expenses is not reduced by personal use of the phone by the employee. Effective beginning in tax year 2010.

- Allows qualified distributions from deferral plans, such as 401(k), 403(b), or 457 (b) plans, to be rolled over into associated Roth IRA accounts and recognized 50 percent in tax year 2011 and 50 percent in tax year 2012, rather than 100 percent in tax year 2010.

- Allows annuity holders to annuitize, or take payment of, a portion of the assets in an annuity while keeping the remaining assets in the contract; previously annuity holders wishing to take payments from only a portion of the annuity had to exchange the annuity for two separate annuities. Effective beginning in tax year 2011.

- Reduces the share of income on guarantees that can be sourced outside the United States, effective for guarantees issued after September 27, 2010.

The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Public Law 111-321, enacted December 17, 2010, made the following major changes that affect tax year 2010 (while some of these changes affect tax years beyond 2010, this article conforms only with respect to tax year 2010):

- Allows temporary 100 percent bonus depreciation for property placed in service after September 8, 2010, and before January 1, 2012. *(Minnesota would not conform to the extension of bonus depreciation but would retain its current law requirement that taxpayers add-back to taxable income 80 percent of the additional depreciation amount in the first tax year, and then subtract one-fifth of the amount added back in each of the five following tax years)*

- Extends the teacher classroom expense deduction of up to $250 to tax years 2010 and 2011. *Minnesota would not conform to this deduction; instead taxpayers would be required to add the amount deducted at the federal level to state taxable income. Minnesota conformed to this deduction from tax year 2002, when it was first allowed, through tax year 2006. Minnesota did not conform in tax years 2007 through 2009.*

- Extends the option for taxpayers to claim an itemized deduction for sales taxes rather than income taxes paid to tax years 2010 and 2011 (Minnesota taxpayers will be unaffected by this, since present law requires any deducted sales tax to be added back in computing Minnesota tax; the same add-back is required for income taxes deducted at the federal level)

- Extends the increase in the federal adjusted gross income limit on the amount of qualified conservation easements that may be claimed as a charitable deduction to tax years 2010 and 2011. General law limits deduction of contribution of capital property to 20 or 30 percent of adjusted gross income, depending on the type of recipient organization. Beginning in 2006, the limit was increased to 50 percent for donations of qualified conservation easements by most taxpayers, and to 100 percent for donations made by farmers and ranchers, defined as individuals with 50 percent of gross income from farming/ranching.

- Extends the higher education tuition expense deduction to tax years 2010 and 2011. The deduction applies to up to $4,000 of qualifying expenses for taxpayers with adjusted gross income up to $65,000 ($130,000 for married joint filers), and to up to $2,000 of qualifying expenses for taxpayers with adjusted gross income over $65,000 but less than $80,000 ($130,000 to $160,000 for married joint filers. *Minnesota would not conform to this deduction; instead taxpayers would be required to add the amount deducted at the federal level to state taxable income. Minnesota conformed to this deduction from tax year 2002, when it was first allowed, through tax year 2006. Minnesota did not conform in tax years 2007 through 2009.*

- Extends the authority for individuals age 701/2 or older to transfer up to $100,000 from a traditional IRA or Roth IRA directly to a qualified charity, while excluding that amount from adjusted gross income to tax years 2010 and 2011, and provides that distributions made before after December 31, 2010, and before February 1, 2011 may be recognized in tax year 2010.

- Extends to tax years 2010 and 2011 the enhanced deductions for contributions of food inventory, book inventory, and computers. *Minnesota would not conform to this deduction with regard to computers; instead taxpayers would be required to add the amount deducted for contributions of computers at the federal level to state taxable income. Minnesota did not conform to this deduction in tax years 2007 through 2009.*

- Extends preferential treatment of dividends of regulated investment companies to tax years 2010 and 2011

- Extends to tax years 2010 and 2011 the limit on basis adjustments in S corporation stock when S corporations donate appreciated property to the tax basis of the property rather than the fair market value (this reduces capital gain on later sales of the S corporation stock, compared with prior law).

3 **Additions to federal taxable income (FTI) for individuals.** Conforms Minnesota's income tax to federal section 179 expensing amounts for tax year 2011, by limiting the addition to taxable income for this item to earlier tax years. Retains as in current law additions to taxable income for the federal teacher classroom expense and tuition deductions. Also limits the addition for subsidies received by companies that provide retiree drug benefits to tax years before 2013; changes to federal law eliminated the federal exclusion for subsidies, making the state tax addition duplicative.

Effective date: tax year 2010

4 **Additions to FTI for corporations.** Conforms Minnesota's income tax to federal section 179 expensing amounts for tax year 2011, by limiting the addition to taxable income for this item to earlier tax years. Retains as in current law the addition for the enhanced charitable deduction for donation of computers. Also limits the addition for subsidies received by companies that provide retiree drug benefits to tax years before 2013; changes to federal law eliminated the federal exclusion for subsidies, making the state tax addition duplicative.

Effective date: tax year 2010

5 **Update to other references to the Internal Revenue Code in chapter 290.** Adopts federal changes to federal adjusted gross income used for computing individual alternative minimum tax and determining withholding on wages. FAGI also is the starting point for calculating household income which is used to compute the dependent care and K-12 education credit for tax year 2010 and following years. The main changes to federal adjusted gross income are described in section 2.

6 **Update of references to Internal Revenue Code in the property tax refund chapter.** Adopts the federal changes that affect household income, which uses the definition of federal adjusted gross income as a starting point.

7 **Corrected form W-2 not required.** Provides that employers are not required to issue corrected 2010 W-2s to employees if they have already issued W-2s for 2010 that show the value of health insurance coverage provided to adult children under age 27 that was includible in state taxable income under prior law.

Effective date: day following enactment