MINNESOTA CENTER for Fiscal Excellence

LEGISLATIVE SPOTLIGHT

Sound tax policy. Efficient spending. Accountable government.

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This publication is for MCFE members only. Please respect the privileges of MCFE membership by sharing this only with colleagues in your company (for business members) and immediate family (for individual members).

Does your crystal ball work? If it does, consider this a want ad. With a substantial number of significant "unknowns" that have the potential to introduce serious chaos into a 13-week legislative session, we need all the help we can get figuring out how things might shake out.

With that, we open our 27th series of "Legislative Spotlight", where we provide summaries of tax-related bills and selected bills in other policy areas. A quick overview for new members: we often add historical context and content, broader perspective, or our evaluation of a bill's relationship to sound tax policy or public finance principles. In some cases, we rely on legislative staff to help us understand a bill or the bill's intent, but any errors in a summary or misunderstanding of a bill's intent are the responsibility of MCFE. Please contact us if we are in error – we will be happy to make the correction.

On the policy end, one of the major unknowns will be resolved next week: the state's economic forecast, which will produce the surplus or deficit number that will define the field of play as far as fiscal policy goes this session. After that, the need for Minnesota to respond to the federal Tax Cuts and Jobs Act (TCJA) will dominate this legislative session. With all the decisions that need to be made – including whether and how to subordinate spending priorities to tax reform – it's an open question as to whether the tax committees can successfully navigate this process between now and the middle of May. No one will want to come back later in the year for a special session, but it's very easy to imagine a scenario where that becomes a necessity

Meanwhile, the politics of this session could get complex in a hurry. Election years always come with a different set of rules, and having a wide-open governor's race makes things even more interesting. But the $64,000 question is whether Lt. Gov. Michelle Fischbach will be forced from her Senate seat. If so, a prolonged 33-33 split in the Senate could tie the legislative process in knots.

We will obviously be chiming in with our own analysis and perspective on tax issues. MCFE member involvement is going to be more important than ever, so please contact us if there are issues critical to your business or industry that you want to make sure policymakers know about. To keep track of session developments and our activities, be sure to bookmark the members-only blog on our website, where we post news from committee hearings and other items of interest. If you need help accessing the site, contact our office for assistance.

Finally, thanks to all of you for your support for our mission: sound tax policy, efficient spending, and accountable government.

FROM THE COMMITTEE ROOMS

House Tax Committee Hears From Agency and Legislative Staff on TCJA Impacts

On Tuesday, February 20, the House Tax Committee heard a presentation by the Department of Revenue Commissioner Bauerly and agency staff on the potential implications on state taxpayers of not tackling the issue of federal conformity this year. The answer: not pretty. The Department made it quite clear, albeit in their trademark carefully measured way, that failing to respond and conforming instead to the old tax code would create an overwhelming administrative burden for the Department and major hassles and problems for tax filers.

On February 22 the House Tax tablesetting exercise continued with presentations from House Research and House Fiscal staff on the major TCJA features triggering conformity decisions and an overview of revised (but still preliminary) revenue implications. Questions were limited due to time constraints but it was clear legislators were engaged and had been fielding calls from constituents about various provisions.

If nothing else, these two hearings communicated to committee members the challenge they face and the need to act sooner rather than later. That later point was emphasized by testimony from the counsel for the national trade association representing tax preparation and tax software companies, who made it clear pushing decisions off to 2019 would be asking for trouble. Public testimony will continue next week at which time we will get more insights into how influential political interests are thinking about this issue.

Moving forward, one of the first challenges lawmakers will face will be to establish some basic ideas and principles for how to approach conformity. Various (and sometimes competing) ideas we have heard expressed are: 1) conform as much as possible; 2) revenue neutrality; 3) make the state tax code more competitive; 4) no tax increase on any Minnesotans; and 5) have the state "balance" the larger amounts of tax relief given to higher income households through federal reform by providing more state relief to lower and middle income households. As that suggests, getting everyone to agree to the big picture will be a challenge – let alone agreeing on the details.

BILL INTRODUCTIONS

Tax bills are listed first by tax type in alphabetical order, then additional topics in alphabetical order. Within each topic, House bills (HF--for "House File") are listed first, then Senate bills (SF--for "Senate File"). The bills are in numerical order within each chamber. Each bill heading contains the chief author and his or her political party, city or township of residence, and the last four digits of his or her capital office phone number. The 651 area code and 296-exchange are assumed unless shown otherwise.

NOTE

Some bills summarized in this edition of *Legislative Spotlight* were introduced in 2017 after the committee deadlines. Since bills introduced during the first year of the biennial session are still alive in the second year, we have summarized bills of interest that could receive a hearing in 2018. Bills introduced last year have a **[2017]** stamp following the bill number and author information.

TAXES

This first portion of tax bills consists of more comprehensive bills. The bills included under various "combinations" are bills with more than one tax in them, but are not considered comprehensive. Unless otherwise noted, effective dates for bills are as follows:

- *Corporate franchise and individual income taxes: Tax years beginning after December 31, 2017*
- *Property tax: Taxes levied in 2018, payable in 2019*
- *Sales tax: Sales and purchases made after June 30, 2018*

HF 2716 (Drazkowski, R, Mazeppa, 2273); and SF 2428 (Chamberlain, R, Lino Lakes, 1253) [2017]

Eliminates the individual income; corporate franchise; insurance; occupation; and sales, excise, and gross receipts taxes after 12/31/18. Imposes a consumption tax and sets the rate equal to whatever is necessary to replace the revenues anticipated to be lost by eliminating the above taxes. Creates various exemptions, largely related to business inputs and government/nonprofit purchases. Creates an intermediate and export credit, a business use conversation credit, an insurance proceeds credit, and a bad debt credit. Requires Revenue to develop legislation to implement this tax regime and creates a task force to advise DOR accordingly. Creates a monthly sales tax rebate for qualified low-income persons equal to 1/12 of the annual poverty guidelines times the fair tax rate. Makes conforming changes to provisions relating to the constitutionally-dedicated 0.375% sales tax.

Every legislative session has at least one introduction of some "really radical concept" tax reform bill – which are more often statements of principle and ideals than pragmatic policy proposals. This will likely get lost in the shuffle as tax committees will have more than enough on their plate dealing with the implications of the TCJA.

SF 2523 (Franzen, DFL, Edina, 6238); and SF 2529 (Rest, DFL, New Hope, 2889)

Conforms Minnesota's individual income, corporate income, and estate tax regimes to federal changes made in the Disaster Tax Relief and Airport and Airway Extension Act (adopted 9/29/17). SF 2529 further provides for federal conformity for the following changes adopted in the Tax Cuts and Jobs Act: modifications to the medical expense deduction floor, modifications to section 179 expensing, and modifications to bonus depreciation.

HF 2942 (Applebaum, DFL, Minnetonka, 9934)

Conforms Minnesota's individual income, corporate income, and estate tax regimes to federal changes made in the Tax Cuts and Jobs Act except for the following:

- 20% deduction for qualifying pass-through business income
- Elimination of the "above the line" moving expense deduction
- Any cap on the ability to deduct property taxes paid when computing taxable income
- Changes to the historic rehabilitation tax credit that convert credit payments from a one-year to a five-year period
- The additional deduction for repatriated earnings that are cash and cash equivalents, and allows the taxpayer to add-back the earnings over the same periods and using the same percentages that are used to determine its federal tax payments on its deferred foreign income (i.e., Minnesota would not recognize the federal bifurcated treatment of cash and cash equivalents vs. non-cash investments).

Creates Minnesota-specific personal exemptions of $4,150 per individual and $8,300 for married couples filing jointly and Minnesota-specific dependent exemptions of $4,150 per dependent. Directs that the exemptions phase out under the rules previously in place at the federal level and further directs that the phaseout thresholds be adjusted annually for inflation. Applies the newly-created exemptions to the property tax refund regime. Provides that taxpayers who do not itemize may, for Minnesota purposes, subtract all charitable contributions when computing Minnesota taxable income. Reduces the "co-pay" percentages in the circuitbreaker refund programs for homeowners and renters (thereby making the programs more generous).

We would not be too surprised to see more of these types of bills, some more comprehensive than others, over the next few weeks for a couple of reasons. First, the TCJA is a salad bar of tax conformity options to pick and choose from in support of various policy objectives and interests. Second, one often sees identical or nearly-identical bills introduced by multiple lawmakers who both want to advance a cause they believe in while at the same time creating compelling campaign literature ("fighting for x by working to preserve y"). It will be interesting to see how this bill and others that follow receive treatment in the legislative process.

Combinations of Taxes (Corporate and Individual Income)

HF 2951 (Quam, R, Byron, 9236)

Authorizes individual income and corporate franchise tax filers that have entered into a collaborative vocational training agreement with a secondary or postsecondary school located in Minnesota to subtract the value of the education cost savings realized during the taxable year resulting from the agreement when computing Minnesota taxable income.

Combinations of Taxes (Motor Vehicle Sales and Sales)

HF 2870 (Sundin, DFL, Esko, 4308)

Exempts any lease of an American-made motor vehicle by a unit of state or local government from the sales and use taxes. Restricts the current motor vehicle sales and use tax exemption that relates to units of state and local government so that it only applies to purchases of American-made motor vehicles. Defines "American-made motor vehicle" as those vehicles with a VIN that begins with the number "1".

We don't understand why we would forego tax revenue to stimulate economic activity that is mostly going to take place in other parts of the country rather than use those resources to deliver services or tax relief to people here in Minnesota.

Corporate Income Taxes

SF 2526 (Rest, DFL, New Hope, 2889)
Repeals the corporate alternative minimum tax and the corporate minimum fee.

Minnesota is one of just seven states with a corporate AMT. With the federal repeal of the AMT and various modifications throughout the Internal Revenue Code, the Minnesota AMT would be even more complicated and burdensome and certainly no picnic for the Department to audit. While waiting on the Department's revenue estimate for the cost of this proposal, it's worth noting the last time they published a corporate income tax bulletin (about a decade ago) the corporate AMT constituted about 1% of state corporate income tax collections. Given the current circumstances, that's not worth retaining.

Estate Taxes

SF 2517 (Westrom, R, Elbow Lake, 3826)
Changes the base on which the qualified farm property subtraction recapture tax is calculated from the amount of the exclusion the estate claimed to the value of the disqualified property that ceases to satisfy the three-year use requirement. Prohibits imposition of the recapture tax where one-fifth or less of the total qualifying farm property is reclassified for property tax purposes during the three-year holding period and the heir has not substantially altered the use of the reclassified property during that period.

Gambling Taxes

SF 2524 (Lang, R, Olivia, 4918)
Establishes a seven-member Task Force on Charitable Gambling Taxation with two members from the House, two members from the Senate, one member from the Department of Veterans Affairs and two members from lawful gambling organizations. Requires the task force to study the current charitable gambling tax structure and report to the legislature by 2/15/19 with recommendations for modifying the tax rates, if advisable.

Individual Income Taxes

HF 2833 (Drazkowski, R, Mazeppa, 2273); and SF 2566 (Chamberlain, R, Lino Lakes, 1253)
Authorizes individual income tax filers to subtract tip income when computing Minnesota taxable income. Modifies withholding requirements accordingly.

HF 2972 (Sundin, DFL, Esko, 4308); and SF 2475 (Lourey, DFL, Kerrick, 0293)
Creates an individual income tax credit equal to the costs of purchasing and installing a system to reduce the arsenic or nitrate concentrations of well water below the maximum levels provided for in federal law. Caps the maximum credit a filer may claim at $500.

SF 2318 (Benson, R, Ham Lake, 3219) [2017]
Provides a subtraction from Minnesota taxable income for the value of charity health care service provided by a licensed medical professional, dentist, or chiropractor acting within the scope of his or her license. Requires claimants to value the services at the appropriate Medicare reimbursement rates. Requires claimants to file informational reports with Revenue documenting the value of the services used to claim the deduction. Companion to HF 0156 (Gruenhagen, R, Glencoe) in Spotlight 17-01.

SF 2418 (Pratt, R, Prior Lake, 4123) [2017]
Creates a refundable individual income tax credit for high school teachers teaching concurrent enrollment courses (i.e., college courses offered at the high school). Sets the credit equal to the amount of tuition and fees the teacher paid for postsecondary courses required to teach the course, to the extent included in his/her federal taxable income, to a maximum of $2,500.

Insurance Taxes

HF 2947 (Schultz, DFL, Duluth, 2228); and SF 2535 (Lourey, DFL, Kerrick, 0293)
Clarifies that for-profit health maintenance organizations must pay the 2% premium revenue tax.

Mining Taxes (including Aggregate)

SF 2289 (Tomassoni, DFL, Chisholm, 8017) [2017]
Converts the net proceeds tax on nonferrous mining with rate of 2% to a gross proceeds tax with a rate of 2.75%. Exempts iron ore and taconite concentrates from the new gross proceeds tax. Directs that the revenues be distributed along with those from the net proceeds tax on mining. Companion to HF 2496 (Metsa, DFL-Virginia) in Spotlight 17-06.

MinnesotaCare Taxes

HF 2948 (Schultz, DFL, Duluth, 2228)
Eliminates the sunset of the MinnesotaCare provider tax, schedule for January 1, 2020.

This is a rather significant tax policy issue and revenue source ($635 million in FY 2017) that has sort of gotten lost in the swirl of federal tax reform. When the state moved to a basic health plan using the Obamacare tax credits for MinnesotaCare, the provider tax no longer was closely linked with funding the program. Functionally, the provider tax has now become an important source of supplemental financial support for Medical Assistance (Medicaid). As of the November forecast, the state's Health Care Access Fund is projected to support $1.07 billion of Medical Assistance spending either directly or indirectly in FY 2018-19, and the provider tax is projected to comprise nearly $1.4 billion of that fund's revenues. Last session's general fund budget and accompanying tax relief were enabled by substantial Medicaid savings as expenses were moved over to the HCAF.

The sunset of the tax will put hundreds of millions of dollars of new pressure on the general fund. An extension likely won't get much committee airtime this session but expect to be a major topic in the 2019 session as the sunset approaches.

Motor Vehicle Rental Taxes

SF 2429 (Dibble, DFL, Minneapolis, 4191) [2017]
Exempts car sharing services from the 9.2% motor vehicle rental tax and the 5% motor vehicle rental fee.

Property Tax (except Aids and Credits & TIF)

HF 2565 (Anderson, P., R, Starbuck, 4317); and SF 2308 (Weber, R, Luverne, 5650) [2017]
Exempts property owned by a conservation organization that is leased, loaned, or otherwise made available to a private individual, corporation or association for activities that further the owners' conservation objectives for the property from the property tax.

HF 2646 (Becker-Finn, DFL, Roseville, 7153) [5/4/17]; and SF 2361 (Sparks, DFL, Austin, 9248) [5/1/17]
Authorizes soil and water conservation districts (SWCD) to levy property taxes and spend the proceeds on district purposes authorized by law. Directs each SWCD to create an operations fund to receive tax levy proceeds and other operating revenues; and further provides for a budgeting process for such funds. Authorizes SWCDs to create soil and water management areas. Authorizes SWCDs to impose charges for districted operations and statutorily-authorized programs and projects.

Under current law, SWCDs have no direct taxing authority and any tax revenues they receive are raised by county boards.

HF 2674 (Dean, R, Dellwood, 3018) [2017]
Stipulates that the Department of Revenue, and not affected counties, shall be liable for repayments of property taxes to a petroleum pipeline operator whose pipeline system crosses portions of between 10 and 15 counties. Effective only for repayments required under appeals filed prior to May 1, 2016.

HF 2735 (Fischer, DFL, Maplewood, 5363); SF 2494 (Wiger, DFL, Maplewood, 6820); and SF 2606 (Newton, DFL, Coon Rapids, 2556)
Eliminates the provision that limits the period during which a surviving spouse of a permanently disabled veteran or an active duty service member who dies from a service-connected cause may continue to claim the disabled veteran market value exclusion to a maximum of eight years. Extends the benefit to surviving spouses of veterans with a disability rating of 70% of more. HF 2735 and SF 2494 are companions; all three bills are identical.

HF 2770 (Drazkowski, R, Mazeppa, 2273)
Converts Minnesota's property tax system to a basis of assessed values and mill rates. Converts the system to assessed values by multiplying all relevant class rates and associated percentages and dollar figures in current law by a factor of 50.

Under this proposal, residential homesteads would be taxed on 50% of their market value, apartments would be taxed on 62.5% of the market value, and commercial-industrial parcels would be taxed on 75% of the first $150,000 of market value and 100% of any value over that.

Minnesota's Rube Goldberg system of property taxation effectively creates an alternate tax base – net tax capacity – that serves no discernible purpose except perhaps to offer psychological relief to property owners that they are only taxed on a small fraction of the value of their property. Of course, that simply leads to "sticker" tax rates that are astronomically high. There would no doubt be serious upfront costs associated with a conversion like this. But anything the state can do to make our Byzantine property tax system easier to administer and simpler to understand over the long-term is well worth the resources it takes.

HF 2826 (Sandstede, DFL, Hibbing, 0172); and SF 2592 (Bakk, DFL, Cook, 8881)
Deems any property used by the city of Proctor or the St. Louis County Fair Association for the primary purpose of providing a dirt speedway in the city of Proctor as publically-owned and therefore exempt from property taxes. Deems any property used by the city of Hibbing or the Iron Range Racing Association for the primary purpose of providing a raceway in the city of Hibbing as publically-owned and therefore exempt from property taxes.

HF 2834 (Gruenhagen, R, Glencoe, 4229)
Exempts property on which a nonprofit organization operates a licensed childcare facility that accepts families participating in the child care assistance program from property taxes.

HF 2836 (Ecklund, DFL, International Falls, 2190)
Expands the taconite assistance area to include that portion of the Nett Lake school district located within St. Louis County.

HF 2907 (Howe, R, Rockville, 4373)
Authorizes county veterans service officers to disclose private data necessary to determine a client's eligible for the disabled veteran's homestead market value exclusion to county assessors.

HF 2909 (Kiel, R, Crookston, 5091); and SF 2463 (Johnson, M., R, East Grand Forks, 5782)
Extends the sunset date for levy authority granted to certain multicounty housing and redevelopment authorities from taxes payable 2019 to taxes payable 2024.

HF 2941 (Davids, R, Preston, 9278); and SF 2458 (Chamberlain, R, Lino Lakes, 1253)
Exempts tribal-owned property in the city of Duluth from property taxes if the property is 34,000 square feet or less and used exclusively as a pharmacy.

HF 2956 (Schultz, DFL, Duluth, 2228)
Exempts an elderly living facility located in the city of Duluth from property taxation.

The Minnesota Constitution prohibits "special laws" (which refer to individual persons, things, or locales in a given class) when exempting property. To get around this, legislators pass general laws that are written so specifically that they really only apply to one person or thing, even though any person or thing meeting the criteria could in theory take advantage of the law. The down side (which applies in this case) is that it can be very hard to identify the targets of these specifically-written general laws without guidance from the author(s) or drafter(s) – although of course one can be reasonably certain the facility is located somewhere in a sponsor's district.

HF 2971 (Sundin, DFL, Esko, 4308); and SF 2476 (Lourey, DFL, Kerrick, 0293)
Requires the state to finance the costs of any property tax judgments made against state-assessed property. Creates an open and standing appropriation for such.

If the current situation – having the state botch an assessment and then sticking local governments with the cost of the mistake – isn't the quintessential definition of "unfunded mandate", we don't know what it would be.

SF 2321 (Hoffman, DFL, Champlin, 4154) [2017]
Directs that property qualify for Green Acres treatment if it received such treatment in assessment year 2012 and did not receive such treatment in assessment years 2013 through 2017 only because the parcel fell below 10 acres in size due to eminent domain actions.

SF 2452 (Chamberlain, R, Lino Lakes, 1253)
Allows persons applying for homestead classification to use a federal taxpayer identification number in lieu of a Social Security number.

Property Tax – Aids and Credits

HF 2638 (Hortman, by request, DFL, Brooklyn Park, 4280) [2017]
Authorizes local governments to maintain roads owned by common interest ownership associations (CIOA), so long as the CIOA agrees to pay for the maintenance costs. Creates a property tax credit for property owners in a CIOA, with the rate set equal to the total maintenance costs paid to local governments in the prior year divided by the total taxable tax capacity of the association's properties. Prohibits the credit from exceeding total tax levied on the property by a city or town.

Property Tax – Tax Increment Financing

HF 2923 (Uglem, R, Champlin, 5513); and SF 2531 (Hoffman, DFL, Champlin, 4154)
Creates special rules for the Mississippi Crossings tax increment financing district in the city of Champlin.

Sales Tax

HF 2663 (Hamilton, R, Mountain Lake, 5373) [2017]
Authorizes a city or group of cities to impose a local sales and use tax of up to 0.5% without need for a special law. Requires such revenues be used to finance capital costs of certain listed regional projects, which generally relate to public facilities; improvements related to state highways; parks, trails, and recreational centers; or flood control and water quality projects. Requires voter approval for the imposition of such a tax. Prohibits any such tax from being imposed for over 20 years. Companion to SF 1875 (Senjem, R-Rochester) in Spotlight 17-05, where there is a comment.

HF 2754 (Nornes, R, Fergus Falls, 4946); and SF 2454 (Ingebrigtsen, R, Alexandria, 7-8063)
Authorizes the city of Perham to impose a 0.5% sales and use tax, pursuant to voter approval at the 2018 general election. Dedicates these revenues to finance debt, capital, and administrative costs associated with the Perham Area Community Center project. Authorizes bonding authority of up to $8 million for the project. Directs that the tax expire when funds sufficient to pay the project costs have been collected or after 25 years, whichever is earlier. Allows the city to end the tax at an earlier date if it so chooses. Requires excess funds be placed in the city's general fund.

HF 2811 (Knoblach, R, St. Cloud, 6612); and SF 2497 (Relph, R, St. Cloud, 6455)
Exempts vendors of construction materials (defined using specific four- and five-digit NAICS codes) from the requirement to remit June sales tax collection on an accelerated basis.

HF 2812 (Knoblach, R, St. Cloud, 6612); and SF 2498 (Relph, R, St. Cloud, 6455)
Expands the existing sales tax exemption for previous metal bullion to include bullion coin.

HF 3006 (Schultz, DFL, Duluth, 2228); and SF 2603 (Simonson, DFL, Duluth, 4188)
Authorizes the city of Duluth to increase its local sales and use tax from 1.0% to 1.5% and dedicates the proceeds to pay for various infrastructure expenses outlined in its 2017 Street Improvement Program. Provides that the additional tax have a maximum life of 25 years or after sufficient funds have been raised to finance the costs of the described projects, whichever is earlier.

SF 2253 (Eken, DFL, Twin Valley, 3205) [2017]
Authorizes the city of Detroit Lakes to impose a 0.5% sales and use tax, pursuant to voter approval within two years. Dedicates these revenues to finance capital improvements relating to specified wastewater, regional recreational, regional service, storm sewer, lakefront development, and public works projects. Authorizes bonding authority of up to $26 million for these projects. Directs that the taxes expire when funds sufficient to pay the project costs have been collected or after 25 years, whichever is earlier. Allows the city to end the tax at an earlier date if it so chooses. Provides that any excess funds be placed in the city's general fund. Companion to HF 2485 (Marquart, DFL-Dilworth) in Spotlight 17-06.

SF 2256 (Osmek, R, Mound, 1282) [2017]
Requires counties to obtain voter approval at a general election before imposing the 0.5% greater Minnesota transportation sales and use tax. Further requires voters to reapprove the tax every ten years if revenues fund transit operating costs. Companion to HF 2509 (Runbeck, R-Circle Pines) in Spotlight 17-06.

SF 2456 (Bakk, DFL, Cook, 8881)
Exempts sales of tangible personal property to nonprofit cross-country ski clubs that are used primarily and directly for the grooming of state or grant-in-aid cross-country ski trails from the sales and use taxes.

This proposal would treat these purchases the same as purchases of similar equipment by nonprofit snowmobile clubs to be used for similar purposes.

Tobacco Taxes

HF 2790 (Freiberg, DFL, Golden Valley, 4176); and SF 2586 and SF 2594 (Klein, DFL, Mendota Heights, 4370)
Increases the cigarette excise tax rate by 14¢ per pack, from $3.04 to $3.18. Directs that the rate be adjusted annually in the same proportion as the in-lieu sales tax rate. Companion bills HF 2790 and SF 2594 also increase the maximum premium cigar tax rate from $0.50 to $3.50 per cigar. HF 2790 and SF 2594 also dedicate an additional $12.5 million in cigarette taxes and an additional $1.8 million of tax revenues from premium cigars for tobacco use prevention purposes.

These proposals would roll back some or all of the cigarette and tobacco tax changes in the 2017 omnibus tax bill to which Governor Dayton objected.

A quick note about the in-lieu sales tax and how it is calculated for those who don't know the history. The provision was enacted in the early/mid-oughts in response to concerns that retailers were not remitting cigarette tax revenues. The legislature decided to put the burden for collecting and remitting the tax at the distributor level – where Revenue can much more easily enforce compliance. However, since distributor prices are not retail prices, Revenue was given the job of determining the average price of a pack of cigarettes in the state annually, so that the tax can be applied to that price at the distributor level. This proposal would basically index the tax to any change in the DOR-determined average per-pack retail price.

EDUCATION – FINANCE

HF 2537 (Sandstede, DFL, Hibbing, 0172); and SF 2271 (Tomassoni, DFL, Chisholm, 8017) [2017]
Creates a new general education revenue component ("postsecondary enrollment options impact revenue") equal to the basic formula allowance times the total average daily membership foregone by pupils' participation in PSEO times the ratio of: the lost ADM to total ADM for the previous year's senior class and, two. Dedicates the revenues to spending that ensures sustainable educational offerings and programs at the high school level.

The proposal is designed to mitigate the postsecondary enrollment option program's impact on high schools.

HF 2958 (Fischer, DFL, Maplewood, 5363); and SF 2507 (Wiger, DFL, Maplewood, 6820)
Increases school districts' safe schools levy authority from $36 per pupil to an unstated amount. Authorizes school districts to spending safe school levy proceeds to enhance cybersecurity.

HF 2959 (Fischer, DFL, Maplewood, 5363); SF 2506 (Wiger, DFL, Maplewood, 6820); and SF 2608 (Newton, DFL, Coon Rapids, 2556)
Authorizes school boards to renew an existing operating referendum or an existing capital project referendum (SF 2608 only) so long as 1) the per-pupil amount (or local tax rate, for capital project referenda) and term of the renewed referendum are identical to the original amounts and 2) the board adopted a written resolution to provide for such after holding a meeting and allowing public testimony on the proposed renewal. SF 2608 prohibits renewal authority for a capital project referendum that would finance a project not receiving a positive review and comment by the Department of Education, if so required. HF 2959 and SF 2506 are companion bills.

Operating referenda can be seen as either the remaining cornerstone of local accountability in Minnesota's school finance system or a critical source of school funding too easily politically manipulated by outside parties and influences. Both statements are true. It seems to us that making locally elected school boards more accountable to their constituents for these important decisions is a way to maintain more control over referendum destiny while preserving and strengthening the accountability link. These proposals seem a worthy step in this direction.

HF 2960 (Fischer, DFL, Maplewood, 5363); and SF 2508 (Wiger, DFL, Maplewood, 6820)
Creates a school facilities improvement revenue equal to $212 per pupil and an additional $65 per pupil for districts that are members of an intermediate school district. Sets a district's levy under this program equal to the revenue times the lesser of: one or, the ratio of its per pupil adjusted net capacity to 125% of the state average per pupil adjusted net capacity. Creates an aid program to pay districts for the difference between its revenue under this program and its levy. Prohibits school districts that levy for capital expenses from participating in this program.

SF 2552 (Housley, R, St. Mary's Point, 4351)
Increases school boards' current authority to convert $300 per pupil of existing referendum authority to "board approved" authority to an unspecified amount per pupil.

SF 2576 (Wiger, DFL, Maplewood, 6820)
Increases equalization levels by unspecified amounts for school district referendum levies, local optional levies, and debt service levies.

HIGHER EDUCATION – FINANCE

HF 2670 and HF 2671 (Carlson, L., DFL, Crystal, 4255) [5/16/17]; and SF 2431 and SF 2432 (Frentz, DFL, North Mankato, 6153) [2017]
Requires MMB, following any biennium in which the legislature did not provide at least 67% of the instructional costs to public postsecondary institutions, to transfer 25% of any general fund balance, net of the $350 million cash flow account and the $1.6 billion budget reserve, to a higher education reserve fund (HERF). Sets a maximum funding level for the HERF equal to 15% of the combined state appropriations for MNSCU and the University of Minnesota. Prohibits the account from being tapped unless a negative budgetary balance is projected. Companion bills HF 2671 and SF 2431 prohibit the transfer from the general fund to the HERF from exceeding the difference between the amounts actually appropriated and 67% of the instructional costs. HF 2671/SF 2431 also requires the MNSCU board to use the transferred funds to reduce undergraduate tuition and requests to

Board of Regents for the U of M system to do the same. HF 2670 and SF 2432 are also companion bills.

A unique approach to dedicated funding, the practical implications of this idea are reminiscent of the formula flaws from the early days of LGA – the more you spent, the more you got. Post secondary institutions would have an incentive to increase instructional costs so as to ensure the trigger gets tripped.

LABOR

HF 2924 (O'Neill, R, Maple Lake, 5063)
Requires proposed changed to state employee group insurance be submitted on a stand-alone basis to the Legislative Coordinating Commission (LCC) for approval or disapproval. Prohibits any collective bargaining agreement or compensation plan from being submitted to the LCC if it includes changes to state employee insurance the body previously disapproved.

Approving compensation on a piecemeal basis doesn't make much sense to us. That said, employee health care is a major part of the total compensation package for the public workers that too often gets lost in the reporting on higher profile wage issues. Additional transparency on the features and cost implications of these provisions during contract negotiations would be welcome.

HF 2925 (Rarick, R, Pine City, 0518)
Prohibits public unions representing state employees from using general dues revenues for political purposes. Requires that any expenditures for political purposes be made from a separate fund to which contributions are made voluntarily and specifically for such purposes.

HF 2926 (O'Neill, R, Maple Lake, 5063)
Stipulates that legislative ratification of proposed collective bargaining agreements must involve majority approval of the same language by both the Minnesota House and Minnesota Senate. Further stipulates that such requirement apply to any contingent ratification which depends on the fulfillment of some express condition, including, but not limited to, enactment of a law.

HF 2981 (Drazkowski, R, Mazeppa, 2273)
Requires Minnesota Management and Budget to develop a performance appraisal system that must include a rating system for employee performance that identifies those who performance does not meet expectations and those whose performance meets or exceeds expectations. Prohibits state civil service employees from being awarded a pay raise in any year following a performance appraisal in which he or she did not meet expectations.

Under current Minnesota law, MMB is already required to "design and maintain a performance appraisal system under which each employee in the civil service in the executive branch shall be evaluated and counseled on work performance at least once a year." Under this proposal, however, those performance reviews would be tied to pay raises, which is not the case now. According to Minnesota statute, "collective bargaining agreements … may, and are encouraged to, provide for pay increases based on employee work performance." To our knowledge, no such collective bargaining provisions exist.

LEGISLATURE

HF 2710 (Hausman, DFL, St. Paul, 3824); and SF 2326 (Marty, DFL, Roseville, 5645) [2017]
Proposes to amend the Minnesota Constitution to provide for a unicameral legislature with members serving four-year terms, effective for the 2022 general election. Sets the size of the legislature in statute at 99 members.

This proposal has been around the block many times now. The U.S. Supreme Court's 1964 Reynolds v. Sims ruling established the "one man, one vote" rule, which mandates that every districts in state and local legislative bodies must have roughly equal population. This makes upper legislative houses in state governments different from the United States Senate, where members are elected at-large from various geographical regions (states) without regard to population. Since the Minnesota Senate and Minnesota House serve the same population in roughly the same proportions (the only difference being in the size of the bodies), proponents of a unicameral legislature can certainly argue that it would not disenfranchise citizens and could, in fact, make lawmaking less costly and more cost-effective. Opponents will argue that a unicameral legislature would make it more difficult to restrain a majority.

HF 2902 (Schomacker, R, Luverne, 5505)
Transfers program evaluation duties related to the state's use of the Pew-MacArthur Results First framework from Minnesota Management and Budget to the Legislative Budget Office.

As a reminder, this program is a rigorous effort to identify which public programs work, which don't, and what the returns on public spending might be using a database of research studies. As an organization that advocates for "efficient government", we continue to be hopeful that this effort will yield positive results for state government. But it will be interesting to see whether the end result is the same as the infamous Ladd Report on the Local Government Aid program – where academicians findings were so far from the conventional and political wisdom that the whole effort was simply dumped in the trash bin.

PENSIONS

HF 2649 (O'Driscoll, R, Sartell, 7808); and SF 2379 (Rosen, R, Vernon Center, 5713) [2017]
Eliminates the governor's authority to appoint a constitutional officer or state official of his/her choosing to the MSRS board of directors and stipulates that the position be filled by the commissioner of Management and Budget (MMB) instead. Removes the State Auditor from the PERA board of directors and substitutes the commissioner of MMB instead.

Because Governor Dayton has currently appointed MMB Commissioner Myron Frans to the MSRS board, practically speaking the proposal would have no effect on that group for now.

SF 2620 (Rosen, R, Vernon Center, 5713)
This bill includes the 2018 legislative proposals for the Minnesota State Retirement System (MSRS), the Teachers Retirement

Association (TRA), and the St. Paul Teacher Retirement Fund Association (SPTRFA). Provisions include, but are not limited to:

- Reduces the assumed rate of investment return from 8.5% (TRA) and 8.0% (MSRS, PERA, and SPTRFA) to 7.5%.
- Increases the target date for amortizing the pension plans' unfunded liabilities to 6/30/2048; lengthening the amortization period by different periods depending on the plan but which generally fall between 5 and 10 years
- Increases MSRS contribution rates as follows:

Effective Date	MSRS Contribution Rate (% of payroll) Employee/Employer		
	General	Correctional	State Patrol
Current	5.5% / 5.5%	9.1% / 12.85%	14.4% / 21.6%
7/1/2018	5.75% / 5.875%	9.6% / 14.4%	14.9% / 24.1%
7/1/2019	6.0% / 6.25%	9.6% / 15.85%	14.9% / 26.1%
7/1/2020		9.6% / 17.35%	15.4% / 28.1%
7/1/2021		9.6% / 18.85%%	15.4% / 30.1%
Upon Full Funding (mkt value)		9.6% / 14.4%	15.4% / 23.1%

- Increases contribution rates for PERA Police& Fire from 10.8% (employee) and 16.2% (employer) by 0.5% and 0.75%, respectively, on 1/1/19 and again on 1/1/20.
- Increases SPTRFA contribution rates as follows:

Effective Date	SPTRFA Contribution Rate (% of payroll)	
	Employee	Employer
Current	7.5%	10.34%
7/1/2018	7.5%	11.175%
7/1/2019	7.5%	12.01%
7/1/2020	7.5%	12.22%
7/1/2021	7.5%	12.43%
7/1/2022	7.75%	12.64%
7/1/2023	7.75%	12.84%

- Reduces annual COLA adjustments to 1.5% except for PERA-Police & Fire (remains at current 1.0%), MSRS-General (reduced to 1% for five years and then 1.5% thereafter), TRA (reduce to 1% for five years and then phased back up to 1.5% over the subsequent five-year period), PERA-General (set to 50% of CPI, with a 1% floor and a 1.5% maximum), and SPTRFA (no adjustment for two-years and 1% thereafter)
- Eliminates existing provisions for all plans that increase the COLA to 2.5% when certain financial triggers are met.
- Makes other various and sundry changes relating to other economic assumptions, deferred augmentation and the interest rate on refunds.

Two things are worth noting in this bill. First is the absence, as of now, of any schedule of contribution increases for the Teachers Retirement Association. That suggests to us two things: 1) school districts' position that additional aid is needed to cover these added costs remains intact, and 2) both the amount of money needed and the precedent such aid would create for the future – not just for school districts but for other local governments too – again presents some problematic politics.

Second, the reduction of MSRS Correctional and State Patrol contribution rates on achieving "full funding" captures the continued dangerous thinking and flawed understanding behind public pensions. If the state remains heavily reliant on investing in volatile asset classes to get higher returns, funding strategies need to reflect the elevated risk associated with embracing that investment risk by creating reserves, or "overfunded" conditions much in the same way the state's more volatile revenue system required a larger budget reserve. Reaching 100% funding, claiming victory and immediately cutting contribution rates by 25% is a guaranteed way to go right back into the soup.

STATE AND LOCAL GOVERNMENT

HF 2643 (Thissen, DFL, Minneapolis, 5375) [2017]

Requires MMB to develop and maintain a web tool that allows users to calculate tax receipts and estimate the amounts of general fund spending by category that would be financed by that amount of tax liability.

HF 2665 (Schultz, DFL, Duluth, 2228) [2017]

Creates a Minnesota Secure Choice Retirement Program to provide individual retirement accounts to employees who work at least 500 hours a year for an employer with at least one employee in Minnesota and does not sponsor or contribute to a retirement savings plan on behalf of its employees. Requires employers who have eligible employees to enroll them in the program. Creates a governing board for the program and authorizes it to set default, minimum, and maximum contribution levels as well as autoescalation requirements that bring employees' contribution rates up to a maximum contribution rate over a period of time. Stipulates that the state has no financial liability to program participants.

It's our understanding that the regulatory interpretation granted by the Obama administration to keep these plans from being in violation of ERISA has since been rescinded by the Trump administration.

HF 2809 (Grossell, R, Bagley, 4265)

Requires Minnesota's legislative branch of government, judicial branch of government, and constitutional officers to adopt emergency operations and continuity of government plans.

HF 2831 (Rosenthal, DFL, Edina, 7803); and SF 2600 (Franzen, DFL, Edina, 6238)

Requires the state's economic forecast to factor the effect of inflation into projections of future expenditures.

This proposal is identical to companion bills HF 1423 and SF 1735, which Rep. Rosenthal and Sen. Franzen authored in the 2017 session. What follows is our lengthy comment on that proposal, which is just as valid now as it was then.

Contrary to popular belief, the practice of excluding inflation from official planning expenditure estimates -- which has been *routinely ridiculed as "inane,""irresponsible," and "fiscally and intellectually bankrupt" -- was standard practice for most of the state's history. Only for an 11 year period, from 1991 to 2002, did the Department of Finance/MMB formally incorporate inflation into expenditure estimates. And for several of those years, it was done selectively and judiciously based on the nature of the appropriation.*

We strongly believe this is a much more complicated and important issue than it may seem on the surface for one big reason: the forecast is not "just" a planning tool as the state's Council of Economic Advisors and others insist. It very much functions practically as a budgeting tool as well. As House Fiscal has noted, formal incorporation creates tremendous flexibility for budget development by providing a large cushion -- over a billion dollars today – that is already counted as spending. The potential to create new spending programs or expand existing ones without ever having to recognize it as "new spending" is very real. If there is a potential loss of honesty and transparency by leaving it out, there is certainly no less of a potential for incurring the same outcomes by putting it in.

We addressed this topic in our November/December 2014 edition of our Fiscal Focus newsletter and posed five questions we think need consideration in any debate over this proposal. To date, we haven't heard a good discussion of any of them. To save you the trouble of looking them up, they are:

1. *What inflation measure should be used and why?*
2. *What parts of the general fund budget should be subject to an inflation estimate?*
3. *Should the fact that government exercises considerable direct influence over inflation in its largest purchased input have any implications for how inflation is treated in the forecast?*
4. *How is the pursuit of government innovation, efficiency, and productivity improvements affected by the decision to reinstate inflation?*
5. *If inflation is included in forecast planning estimates then what additional steps should the state take to expose the nature and causes of that inflation to taxpayers?*

HF 2953 (Scott, R, Andover, 4231)
Transfers the responsibility for providing general oversight for the Minnesota Government Data Practices Act and the Minnesota Open Meeting Law from the Department of Administration of the Office of Administrative Hearings.

HF 2968 (Albright, R, Prior Lake, 5185)
Prohibits local governments (except for school districts) from issuing property tax-backed bonds whose proceeds would be used to finance its unfunded pension or OPEB liabilities.

An ounce of prevention is worth a pound of cure as having local governments wade into the waters of interest rate arbitrage is a recipe for trouble.

SF 2287 (Goggin, R, Red Wing, 5612) [2017]
Excludes the city of Cannon Falls from the metropolitan area for purposes related to the Metropolitan Council.

SF 2328 (Hall, R, Burnsville, 5975) [2017]
Requires cities, counties, and townships to provide 30 days' notice of a hearing on any ordinance or resolution that sets standards or requirements regarding the sales, use or marketing or merchandise to consumers at retail or food service locations that are different from, or in additional to, any state law. Requires such notice to provide an analysis of the proposal's economic impact to the licensed businesses located in the government's jurisdiction and an analysis of the proposal's economic impact on the locality and state, including effects on local or state tax revenue.

SF 2390 (Klein, DFL, Mendota Heights, 4370) [2017]
Prohibits state agencies from using acronyms in a report to the legislature unless the full name the acronym represents is provided the first time the acronym is used in the report.

SF 2415 (Osmek, R, Mound, 1282) [2017]
Abolishes the Metropolitan Council. Transfers its transportation and transit-related functions to the Department of Transportation. Transfers its other duties to the Departments of Administration and Natural Resources.

TRANSPORTATION

HF 2628 (Koznick, R, Lakeville, 6926); and SF 2372 (Chamberlain, R, Lino Lakes, 1253) [2017]
Prohibits any county that once imposed the 0.25% metropolitan transportation area sales tax from imposing the Greater Minnesota transportation sales and use tax at a rate above 0.25% unless voters approve such in a referendum held at a general election. Includes other provisions relating to transit finance and the metropolitan transportation area sales tax.

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