MINNESOTA CENTER for Fiscal Excellence

LEGISLATIVE SPOTLIGHT

Sound tax policy. Efficient spending. Accountable government. **No. 19-05 | Through 03/15/2019**

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Over the last month of bill introductions, we have been struck (apart from the stunning volume of introductions) by the number of bills targeting local option sales taxes. There are, it seems to us, far more proposals than usual to allow local jurisdictions to impose such a tax for the usual varieties of purposes. But there are, more interestingly, proposals to allow blanket authority to local governments to impose these taxes to more or less finance projects with a regional significance. This all speaks to how much the hatred of the property tax is driven by its salience – people would much rather be nickled and dimed through the sales tax (which, by the way, does not apply to business inputs) than they would through the property tax, for which local officials ostensibly must be held accountable at various public hearings.

With today's first committee deadline, the policy committees in the House and Senate are in the midst of their annual marathon of meetings – moving as much legislation through the committee process as they can. However, as our "From the Committee Rooms" articles below can testify to, the Tax Committees have not shirked their duties either. These articles provide detail about hearings on Governor Walz's tax proposals, the state general levy, and institution of a private letter ruling program.

The House Tax Committee also heard the Department's policy and technical bill yesterday. Further along in Spotlight we provide links to the text of the bill and a summary prepared by Department staff. If you have concerns about any of the provisions in the bill, please contact us with them – we will be happy to incorporate them into our efforts as the session moves along.

FROM THE COMMITTEE ROOMS

House Tax Committee Hears Governor's Tax Proposals

The House Tax Committee considered Governor Walz's proposed tax initiatives over the course of two days (March 12-13) of hearings. Day 1 saw Commissioner Cynthia Bauerly and Revenue staff provide an overview of those initiatives, as laid out in HF 2125. This bill does not include two major sources of new revenue the governor is recommending: the 20¢ gas tax increase and the repeal of the sunset of the MinnesotaCare provider taxes, which are both being carried in other bills. Committee chair Paul Marquart (DFL-Dilworth) opened the meeting by arguing that the governor's tax proposals will address the state's slowing job growth, the budget deficit being forecast for the 2022-23 biennium, and the slump in the farm economy. Certainly the proposal would raise new money for the state to spend: $670 million for the upcoming FY 2020-21 biennium and nearly $800 million for FY 2022-23.

Readers who have a sense of déjà vu can be forgiven – some of these provisions reflect priorities for the last administration – especially increased aids for local governments and the expansion of the Working Family Credit. However, some of the more troublesome (from our perspective) provisions offered under the Dayton administration have been left by the wayside: most notably the "corporate tax reform" provisions that included economic substance language and changes to the method for valuing railroad property and the type of railroad property subject to tax.

Here is a short, and by no means exhaustive, summary of these provisions.

<u>Response to Federal Tax Changes for Individuals:</u>

- Switch from federal taxable income to federal adjusted gross income as the starting point for individual income tax calculations.
- Continue the previous federal personal and dependent exemption amounts in Minnesota law ($4,250 per person for tax year 2019).
- Continue the previous federal standard deduction in Minnesota law ($6,650 for single filer, $9,750 for head of household filer, $13,000 for married-joint filer for tax year 2019).
- Continues many of the itemized deductions in effect before the TCJA, most notably the deductions for medical expenses above 10%, casualty losses, and unreimbursed employee expenses.
- Includes various tax extenders relating to, among other things, tuition deduction, mortgage debt forgiveness, and mortgage insurance premiums.

<u>Response to Federal Tax Changes for Businesses:</u>

- Conforms to the federal section 179 changes, which expanded its scope, and eliminates the 80% addback for property placed in service in tax year 2018 and thereafter.
- Conforms to federal increases in bonus depreciation limits and changes to the type of qualifying properties, but maintains the state's addback provisions.
- Repeals the corporate AMT.
- Limits the net interest deduction to 30% of income for business with gross receipts above $25 million.
- Limits business losses in excess of $500,000 (for married-joint filers), with a carry-forward.
- Limits the corporate net operating loss deduction to 80% of income, with a carry-forward
- Imposes the corporate tax on the global intangible low taxed income (GILTI) and the deemed repatriated foreign income created under the TCJA. The measure is retroactive to tax year 2017 but allows companies to make installment payments which begin with their 2019 return.

<u>Individual income tax credits:</u>

- Revives the Angel Tax Credit program, with $10 million in FY 2020 and FY 2021
- Increases the maximum Social Security subtraction amount by about 28% but mitigates that somewhat by slightly lowering the threshold above which the subtraction is phased out.

- The proposal would spend $20 million in FY 2020-21 to expand the generosity of the Working Family Credit for household with three or more children and $82 million in that same period by increasing the credit by $100 for single or head of household filers and by $200 for married-joint filers (to offset the increase in the gas tax).

Sales and Use Taxes:
- Replaces the current marketplace provide physical presence requirements with an economic nexus threshold that mirrors current law for retailers.
- Updates/adds definitions to clarify which remote sellers and marketplace providers are subject to Minnesota sales taxes.
- Provides that all remote sellers with sales of more than $100,000 must collect and remit sales tax.
- Limits the existing qualified data centers software exemption.
- Creates a blanket construction materials exemption for local governments and nonprofits

Aids to Local Governments: Provides the following permanent increases in aids to local governments
- $30.6 million per year for Local Government Aid
- $30.4 million per year for County Program Aid

Property Taxes:
- Reinstates the state general levy inflator.
- Creates a riparian buffer credit of $50 per acre of eligible land.
- Clarifies how the agricultural homestead market value credit is computed and awarded
- Expands eligibility for the senior property tax deferral.

Other taxes:
- Freezes the estate tax subtraction at $2.7 million
- Restores the inflator on the tax rate for cigarettes and other tobacco products and restores the $3.50 premium cigar tax rate.

Commissioner Bauerly also noted that the bill would make some changes retroactively to tax year 2018. However, it would limit the need to file amended returns by creating special rules for tax year 2018 for most individual income tax filers by directing the Department to simply adjust their returns as filed, so that "your existing 2018 outcome will continue to be your outcome". Only filers with foreign income or changes to asset depreciation and bases on those returns would not have such adjustments made, and would likely need to file amended returns. The second day of the hearing saw roughly 30 different testifiers speak to the proposals, with each individual limited to two minutes of concise and predictable testimony that long-time observers of the tax committee could have recited by heart.

Committee discussion around the proposal was wide ranging over the two-day hearing, but one recurring theme was echoed by supporters of Governor Walz's proposal: the TCJA has provided too much relief to corporations and the wealthy, and the state needs to correct for this through its own tax system. It's an interesting argument given that for decades many with similar political views have been adamant that a consideration of federal taxes paid by Minnesotans had absolutely no relevance in an evaluation of the state's tax system. Now that this relationship firewall between the federal and state tax systems correctly lies in ruins, it's important to recognize the consequences of federal action. Like it or not, federal tax reform has made state and local taxation much more economically relevant. That in turn makes the governor's ambitious tax proposals an "all-in" bet on the irresistibility of Minnesota's quality of life and irrelevancy of tax prices paid for public goods in business decision-making.

House Tax Committee Hears State General Levy Proposals

On February 28th the House Tax Committee heard testimony two bills relating to the state general property tax levy. HF 1435, authored by Rep. Dave Lislegard (DFL-Aurora) would increase the existing exemption from the first $100,000 of market value to the first $150,000. The proposal was amended at the committee hearing to include a $23 million reduction in the total levy, so that the additional exemption would not create burden shifting. Rep. Lislegard noted in his remarks that the proposal provides "targeted tax breaks to small businesses in Minnesota" which will "make a big difference to a lot of small businesses". As Rep. Greg Davids noted, though, the bill would benefit every owner of business property, and not just small businesses – although owners of lower-valued properties would realize proportionately higher relief.

The second bill on the agenda – HF 1410 – generated significantly more controversy. The proposal, authored by Rep. Aisha Gomez (DFL-Minneapolis) would convert the state general property tax from a fixed levy amount to a fixed tax rate – meaning that collections would rise and fall with changes in each parcel's value. Committee consideration began with a presentation by House Research staff on the state general levy. Rep. Gomez cast her proposal as an education finance issue, stating that over time schools have come to rely less on general fund appropriations from the state and more on referendum levies. She argued that eliminating the inflator on the state general levy has exacerbated that issue, and that her proposal would ensure that as Minnesota's business community thrives, its schools will also thrive. According to Revenue, the proposal would raise $55 million in general fund revenues in FY 2020-21 and $172 million in FY 2022-23.

Testimony on both bills tended to center on the same issues, although testifiers supporting the expanded exemption for the state general property tax seemed to be opposed to changing it from a fixed levy to a fixed rate. In both cases, testifiers noted that the state general levy creates a high fixed cost for doing business that is ultimately passed along to tenants as part of their rent payments and ultimately to consumers and labor. Competitiveness issues were also a concern, with the Minnesota Chamber highlighting findings from MCFE's property tax comparison study indicating the state has high business property taxes, and that the problem is particularly acute in rural areas. Many testifiers spoke to how Rep. Gomez's proposal would exacerbate the difficulties differentials in tax prices create for attracting investment in Minnesota.

With regard to Rep. Lislegard's proposal, testifiers raised some concerns with expanding the exemption rather than simply lowering the levy. Some concerns centered on the belief that the proposal would exacerbate horizontal equity concerns already existing in the system by delivering proportionately more relief to lower-valued properties, meaning that small businesses renting space in higher-valued properties would receive less relief than a similar business in a lower-valued space. Given the disparities in value across the state, other testifiers noted that if this trend continues the tax will morph into one primarily targeting urban areas.

Committee discussion centered on a variety of topics. Proponents argued that the state needs to make further investments in K-12 education, suggesting by implication that this money could go toward that area. Chair Marquart echoed comments made by other members that the state general levy has not grown as quickly as other property taxes; stating that between 2002 and 2017 the state general levy grew by 46%, compared to 68% for commercial-industrial properties, 111% for residential, and 315% for farms.

There were more than a few questions we would like to have seen asked. How much have these growth differentials to do with maybe a few more new homes than new businesses being built in Minnesota over the last two decades? What's the logic behind the belief that the state's footprint into the local tax base should grow more or less in proportion with that tax base? And, what would the rural economic development challenge look like today if those tax bases had grown at the same rate?

Private Letter Rulings Considered by Senate Tax Committee

The Senate Tax Committee considered the creation of a private letter ruling (PLR) program, at its Thursday, March 7th meeting. SF 1537 sponsor Sen. Roger Chamberlain (R-Lino Lakes) stated that the proposal addresses a customer service issue that is intended to create "some clarity and consistency" for taxpayers in Minnesota. He noted that the federal government and many other states have such a program, under which Revenue would issue letters that act as binding rulings on particular issues a taxpayer has. Sen. Chamberlain noted the rulings would be made available to the public and would require a report that could help legislators understand where there are issues in the tax system.

According to the Senate Counsel and Research bill summary, along with establishing the PLR program, the proposal would:

- Authorize certain small businesses (left undefined in certain respects in the proposal) to request dual sales and income (individual or corporate) tax audits
- Limit DOR's authority to make sales tax assessments that are inconsistent with prior written positions taken by DOR in the audit of a taxpayer or if the assessed amount arose from the taxpayer's failure to collect or withhold from another individual or entity due to reasonable cause.
- Expand the commissioner's authority to abate penalties.
- Modify the time limit for refund of tax overpayment to the later of 3½ years from the filing date or 2 years from the time the tax was paid and limit the amount of refund based on the date the claim was filed.
- Provide that no penalty for failure to tax applies if the calculated amount is less than $150 or for underpayment of income or sales taxes, of the liability on which the penalty is calculated is less than$1,000 and the taxpayer filed timely returns and was not subject to other penalties for the previous three calendar years.

Testifying in favor of the proposal was Geno Fragnito from the Minnesota Society of CPAs, Chris Martin of Grant Thornton on behalf of the CPAs, and Ben Wagner on behalf of Minnesota State Bar Association. Mr. Fragnito asserted that the proposal would promote increased compliance with state tax law by providing guidance and clarity for taxpayers, especially in gray areas where the tax laws are silent or Revenue Notices do not enough detail. He also contended that a PLR program would save money for the state by costing less to administer than the state will save in foregone litigation costs. Mr. Fragnito maintained that similar programs work well in other states – Minnesota and Alaska being the only two states without one – and Minnesota would likely have a positive experience. Mr. Martin testified that both tax practitioners and taxpayers would welcome a PLR program that would provide additional clarity and guidance in areas where tax law is open to interpretation. He also noted that many taxpayers face the same issue, and so one PLRs would be published one ruling could have a wide benefit.

Assistant Commissioner Jenny Starr opening her remarks by detailing the various methods the Department uses to educate and inform taxpayers about tax law, and noted that in response to requests for a more engaged rulemaking process the Department currently involved with three rulemaking projects, which she outlined. She stated the Department is also working with an advisory committee made up of tax professionals with regard to computer software. She spoke to the Department's Revenue Notice program, which she stated are posted on the Department's website and reach a broad audience, cover complex topics, are updated for law changes, and are binding on the Department. She noted that Revenue has worked with tax professionals over the last few years as additional Revenue Notices have been generated to determine which areas are of interest to the community. She also provided information on the amount of taxpayers helped through written guidance and over the phone and also gave an overview of the Department's industry guides.

Assistant Commissioner Starr concluded her remarks by noting that PLR programs across the country are diverse in terms of their formality, their costs, and the number of questions they answer. She asserted that the Department currently prioritizes publishing guidance that is broadly applicable and provides timely education and resources. She stated that although no fiscal notes on the associated administrative costs has been requested, the Department believes this program would necessitate 75 to 100 additional FTE, at a cost of roughly $7.5 million. She spoke quickly to the audit-related provisions of the bill, noting the Department's view that they would likely make audits longer, involve more intensive document requests, require auditors to spend more time at a business being audited, have companies deal with multiple auditors during the same audit, make processing time longer, and result in increased litigation. The bill was, as is customarily the case, "held over" for possible inclusion in the omnibus tax bill.

We echo the testimony provided by the CPA society. Our survey of state tax practitioners from 2016 yielded a call for more interpretive consistency, more reliable, actionable guidance on matters pertaining to the more sophisticated and complex areas of tax law, and strengthening of some procedural protections. Over the last few years, the Department has placed a heavy emphasis on thinking about and treating taxpayers as its "customers". Ask any businessperson and he/she will tell you it is essential to take very good care of your biggest customers – which in this case includes the large multistate and multinational businesses that provide such large shares of business tax revenue to the state. Providing greater predictability and certainty for their decision-making in the highly complex tax situations they find frequently themselves in is an important pursuit and should not be viewed as preferential treatment. As we have testified to in the past, this is not favoritism, just smart tax administration.

And two final thoughts regarding the rather stunning employee and cost estimate provided by the Department to implement such a program. First, if that level of investment would truly be required, it seems to directly call into question the adequacy of existing revenue notices and rules. It suggests either the Department cannot provide enough guidance with these tools or that our tax law is hopelessly ambiguous, or perhaps both. Second, if ever there was an example of why an independent legislative budget office should put together fiscal notes rather than an arm of the executive branch, this is it.

LEGISLATIVE/REVENUE BILL SUMMARIES

The following are links to additional information from the Department of Revenue on bills summarized in this edition of *Legislative Spotlight* that may be of interest to members.

- **HF 2125 / SF 2411 (Governor's tax bill)**

https://www.revenue.state.mn.us/research_stats/revenue_analyses/2019_2020/hf2125_2.pdf
(Revenue Estimate for state taxes and a summary of the entire bill)

https://www.revenue.state.mn.us/research_stats/revenue_analyses/2019_2020/hf2125_pt_1.pdf
(Revenue Estimate for property taxes and local aids only)

- **HF 2169 / SF 2411 (Department policy and technical bill)**

https://www.revisor.mn.gov/bills/text.php?number=HF2169&session=ls91&version=list&session_number=0&session_year=2019
(Bill text)

https://www.revenue.state.mn.us/research_stats/revenue_analyses/2019_2020/hf2169_1.pdf
(Revenue Estimate for state taxes and a summary of the entire bill)

https://www.revenue.state.mn.us/research_stats/revenue_analyses/2019_2020/hf2169_pt_1.pdf
(Revenue Estimate for property taxes and local aids only)

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. Note that "NR" designates members of the House's New Republican caucus. All members' offices have a 651 area code and 296 exchange unless shown otherwise.

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, 2018*
- *Property tax: Taxes levied in 2019, payable in 2020*
- *Sales tax: Sales and purchases made after June 30, 2019*

HF 2125 (Marquart, DFL, Dilworth, 6829); and SF 2411 (Rest, DFL, New Hope, 2889)
These are Governor Walz's tax initiatives. See our article above for more information and links in the column to the left to the materials the Department has prepared on this proposal.

HF 2169 (Marquart, DFL, Dilworth, 6829)
This bill contains the Department of Revenue's technical and policy proposals. We have provided links in the column to the left to the materials the Department has prepared on this proposal.

Combinations of Taxes (Corporate and Individual Income)

HF 2035 (Brand, DFL, St. Peter, 8634); and SF 1946 (Draheim, R, Madison Lake, 5558)
Creates an individual income and corporate franchise tax credit equal to 20% of an eligible charitable food donation (i.e., which is allowed under federal tax law). Limits eligibility to filers engaged in a trade or business that includes regularly selling prepared food. Requires claimants to add back any such charitable contributions that were subtracted when computing federal taxable income.

HF 2089 (Lesch, DFL, St. Paul, 4224); and SF 1936 (Lang, R, Olivia, 4918)
Creates a credit against the individual income and corporate franchise taxes for employers with full-time employees serving in the National Guard or reserve component of the armed forces. Sets the credit per reservist employee equal to $500 plus the following:

Employee Days of Reserve Service in Tax Year	Credit Amount
31 to 89	$1,500
90 to 179	$2,500
180 or more	$5,000

Provides a five-year carryforward for unused credit, which must be applied at the earliest opportunity.

HF 2104 (Haley, R, Red Wing, 8635)
Exempts funds created under section 468A of the Internal Revenue Code that hold contributions dedicated to financing the costs of decommissioning nuclear power plants from the individual income and corporate franchise taxes.

HF 2273 (Her, DFL, St. Paul, 8799)
Repeals various requirements and limitation on the allocated of housing tax credits to projects financed with tax-exempt bond that are subject to the federal volume cap requirements in section 146 of the Internal Revenue Code.

HF 2386 (Becker-Finn, DFL, Roseville, 7153); and SF 2499 (Anderson, P., R, Plymouth, 9261)
Creates a refundable individual income and corporate franchise tax credit (which would not apply to the minimum fee) equal to 50% of a taxpayer's donation to a qualified youth intervention organization. Creates a credit certificate program to which taxpayer must apply to be awarded credits. Imposes a $5 million annual limit on total credit awards and an annual credit limit of $50,000 for corporate tax filers, of $10,000 for married-joint filers, and of $5,000 for any other individual filer, and of $5,000 times the number of members, partners, or shareholders of the entity for a pass-through entity. Directs that pass-through entities must pro rate any credit to participants in the entity based on their share of the entity's income. Provides other rules for administering the program.

MCFE's First Rule for Tax Realists: the impact of taxes on behavior is inversely proportional to the scale of behavior affected. Considerable political skepticism abounds regarding the idea that tax policy has the ability to attract or repel talent, influence siting decisions, and affect other large-scale economic behaviors. But this is a prime example of the near universal belief that there is no desired individual or business behavior, however small, that won't be incentivized, enhanced, or preserved by a tax deduction, exemption, or exclusion.

SF 1967 (Howe, R, Rockville, 2084)
Conforms Minnesota's individual income and corporate franchise tax regimes to portions of the federal Consolidated Appropriations Act, 2018 that amended TCJA provisions which generally provided substantially higher tax deductions to entities (primarily farmers) who sold commodities to cooperatives instead of non-cooperatives. Companion to HF 1417 (Poppe, DFL-Austin) in Spotlight 19-04, where there is a comment.

SF 2017 (Senjem, R, Rochester, 3903)
Creates an individual income and corporate franchise tax credit equal to a proportion of the cost of purchasing and installing a solar energy system. Sets that proportion at 15% for systems placed into service during CY 2019; 13% for systems placed into service during CY 2020; and 11% for systems placed into service during CY 2021-2022. Limits the maximum credit per system to $5,000 if installed on a filer's homestead and to $20,000 if installed on a business property. Disallows the credit if the filer is not receiving electric service at retail from a municipal utility or electric coop at the installation site. Provides a 10-year carryforward of excess credit. Companion to HF 1317 (Bierman, DFL-Apple Valley) in Spotlight 19-04, where there is more information.

SF 2230 (Franzen, DFL, Edina, 6238)
Eliminates the requirement that beginning farmer tax credit claimants submit projected earnings statements to demonstrate a profit potential. Relaxes the requirements for credit claimants relating to participation in an approved financial management program. Reserves 20% of the total credits for beginning farmers who are a "protected group". Companion to HF 1546 (Lippert, DFL-Northfield) in Spotlight 19-04, where there is more information.

SF 2290 (Dziedzic, DFL, Minneapolis, 7809)
Requires the attribution of receipts for services performed for certain investment company funds be made to the state where the shareholders reside. Companion to HF 1829 (Schultz, DFL-Duluth) in Spotlight 19-04.

SF 2429 (Pratt, R, Prior Lake, 4123)
Creates a nonrefundable individual income and corporate franchise tax credit for filers who install certain designated types of mechanical insulation. Sets the credit equal to the cost of placing such materials in service times the percentage reduction in energy loss such property creates relative to certain minimum industry requirements, to a maximum of 30%. Provides a five-year carry-forward for excess credits. Companion to HF 1820 (Fischer, DFL-Maplewood) in Spotlight 19-04, where there is more information.

Combinations of Taxes (Individual Income and MinnesotaCare)

HF 2380 (Schultz, DFL, Duluth, 2228)
Creates a refundable individual income tax credit to be calculated in the same manner as the federal insurance premium tax credit, except for the following:

- Applies the credit only to filers whose household income exceeds 400% of the federal poverty guidelines.
- Provides that the federal government's restrictions relating to essential minimum coverage do not apply.
- Sets the percentage of income which must be contributed to the premium at the highest percentage in the federal credit.
- Stipulates that the monthly premiums used to calculate the credit must be reduced by the amount of premium subsidy made by MNsure and applied to the gross premium.

Authorizes an advanced credit payment for eligible Minnesota residents who have had at least one month of coverage by a qualified health plan offered through MNsure and were not enrolled in Medical Assistance or MinnesotaCare coverage. Directs MNsure to make appropriate advanced credit payments to health carriers. Requires any health care premiums that were deducted when computing federal taxable income and used to compute this credit must be added back when computing Minnesota taxable income.

Repeals the sunset of the MinnesotaCare provider taxes. Provides nexus for the health care provider taxes for out-of-state sellers that essentially mimics the nexus requirements the state established for the sales tax which became effective upon the U.S. Supreme Court's ruling in the *Wayfair* case.

Our reading of this bill is that it proposes to apply the federal premium tax credit at the state level to taxpayers who would otherwise qualify for the credit except that their income exceeds the federal threshold of 400% of the federal poverty guidelines. It also eliminates the sunset of the provider tax and appears to set nexus requirements for the tax relating to sales into Minnesota that are similar to those now in place for the sales tax.

Combinations of Taxes (Individual Income & Property)

HF 2079 (Sandell, DFL, Woodbury, 1147)
Establishes a state referendum replacement levy, which effectively adds the existing school district referendum tax rates to the tax base for the state general levy. Imposes a 10% tax on net capital gain income included in adjusted gross income. Imposes a 19.85% tax on any capital gain not recognized when a decedent's capital assets are passed to an heir. Exempts any capital asset with a fair market value of $25,000 or less at the time of a decedent's death, property classified as a homestead, and the first $50,000 of such unrecognized gains from the proposed 19.85% tax. Eliminates the local optional revenue and aid, equity revenue and aid, transition revenue and aid and referendum revenue and aid funding streams for school districts. Increases the basic education aid from $6,312 per pupil in FY 19 to $6,501 in FY 20 and to $7,500 in FY 21, with CPI-based inflationary increases thereafter. Finances 90% of school districts' initial special education cross subsidy costs.

This major reconstruction and state takeover of education finance obligations begs the question – why even have local control at all? Putting aside the numerous tax policy ramifications – all magnified in the TCJA era – this proposal would even further weaken the increasingly fragile strands connecting responsibilities for raising revenue with responsibilities for managing costs (a.k.a. local accountability) in educational delivery. We file this under "be careful what you ask for."

Combinations of Taxes (Property and Sales)

SF 2121 (Rosen, R, Vernon Center, 5713)
Exempts medical facilities in underserved areas outside the seven-county metro from the statewide property tax for a 15-year period. Exempts sales to such facilities from the sales and use taxes, if the items are purchased or used in providing medical services. Exempts construction materials used in such facilities from the sales and use taxes. Companion to HF 0449 (Bennett, R-Albert Lea) in Spotlight 19-02, where there is more information.

Corporate Income Taxes

HF 2429 (Loeffler, DFL, Minneapolis, 4219)
Authorizes the Department of Revenue to disallow the tax effects of transactions without economic substance. Provides that transactions which do have economic substance meet the following two-prong test: they change the taxpayer's economic position in a meaningful way, apart from tax effects; and the taxpayer has a substantial purpose for entering into the transaction, apart from tax effects. Requires taxpayers to prove a disputed transaction has economic substance with "clear and convincing evidence". Imposes a penalty of 20% on such transactions. Increases the penalty to 40% if the taxpayer did not adequately disclose the relevant facts affecting that tax treatment either in the return itself or in a statement attached to the return.

This brings the controversial "economic substance" issue before legislators once again, which dates to a 2010 Minnesota Supreme Court decision that prohibited the Department from engaging in this practice. The practice would give the Department broad discretion to disregard transactions that it deems make no meaningful change in a taxpayer's economic position. The provisions are troubling in no small part because of a one-two punch: the size of the penalties it would impose on companies that have disallowed transactions and the extremely high burden of proof a taxpayer would need to make to challenge the Department's position. It some ways the economic substance debate is highly reminiscent of the debate over residency testing – significant subjectivity plus high burdens of proof equals a tax planning and enforcement landscape of troubling uncertainty and ambiguity. Likewise, it could be responsibly addressed in the same way as residency testing: statutory language that in this case clearly and unambiguously lists what specific transactions would be found in violation of economic substance.

HF 2530 (Schultz, DFL, Duluth, 2228)
Disallows the dividend received deduction for dividends paid from stock that is debt financed.

Estate Taxes

HF 2019 (McDonald, R, Delano, 4336)
Conforms the estate tax exclusion amount from $3.0 million for estates of decedents dying in 2020 to the federal amount ($11.4 million plus an inflation adjustment). Repeals the qualified small business property subtraction and the recapture tax.

Excise Taxes

HF 2468 (Mekeland, R, Clear Lake, 2451); and SF 2204 (Mathews, R, Milaca, 8075)
Lowers the tax rate on gasoline by 20¢ per gallon, from 28.5¢ to 8.5¢; with corresponding decreases in the E85 and M85 tax rates. Requires a monthly transfer from the general fund to the highway user tax distribution fund equal to what a 15¢ per gallon rate on gasoline would have raised during that month based on actual gas tax collections, less any sales deemed to be for nonhighway use.

HF 2469 (Mekeland, R, Clear Lake, 2451); and SF 2203 (Mathews, R, Milaca, 8075)
Creates an optional 20¢ per gallon tax on gasoline to be used in the same fashion as other gas tax revenues. Directs retailers to ask consumers if they wish to pay the tax at the point of sale. Requires retailers to collect and remit the tax if the consumer wishes to pay.

This functional equivalent of a state of Minnesota tip jar sounds like an administrative nightmare for retailers to implement and comply with and for the Department to enforce and audit.

Individual Income Taxes

HF 1993 (Huot, DFL, Rosemount, 4306); and SF 2254 (Lang, R, Olivia, 4918)
Creates an individual income tax credit for persons credited with at least six months' service in a volunteer firefighter retirement plan or with a year of service as a qualified ambulance service person during the taxable year. Sets the credit equal to $500 for all eligible individuals and allows married-joint filers who are both eligible to claim a $1,000 credit. Allows taxpayers to claim the credit prior to receiving certification of service but requires an amended return to be filed if the service time proves insufficient to claim the credit.

This credit could be claimed by volunteer firefighters, EMTs, and ambulance service persons.

HF 2177 (Haley, R, Red Wing, 8635); and SF 2349 (Goggin, R, Red Wing, 5612)
Creates a refundable individual income tax credit for filers with modified adjusted gross income (MAGI) above the eligibility limit for Medicaid and who have purchased a health care plan offered within Minnesota's individual market but are not eligible for a federal premium tax credit because either: the filer's household income exceeds 400% of the federal poverty guidelines; or the filer has access to an employer-sponsored health care plan through a spouse's employer that is deemed minimum essential coverage and where the employee's annual premium exceeds the federally-required contribution percentage. Sets the credit equal to the annual cost of filer's premium minus 9.6% of the filer's MAGI. Transfers any amount remaining in the premium security amount as of 6/30/2020 to the general fund. Similar in many respects to SF 0352 (Jensen, R-Chaska) in Spotlight 19-02, where there is a comment.

We note for the record that the bill will need to be amended in committee to correct the references to the Internal Revenue Code.

HF 2272 (Robbins, R, Maple Grove, 7806)
Expands eligibility for the education expense credit and deduction to include expenses for preschool programs operated by various defined entities. Sets the maximum subtraction for preschool-related expenses at $1,625 per child (the same as K-6 students). Provides that expenses used to claim the dependent care credit may also be used to claim the education expenses credit and deduction. Companion to SF 1573 (P. Anderson, R-Plymouth) in Spotlight 19-04, where there is more information.

HF 2350 (Kresha, R, Little Falls, 4247)
Revives the angel investment tax credit on a permanent basis. Increases the total amount of credit that may be awarded in any year to $20 million from the $10 million in effect during the last year of the program's life. Gives priority in allocation of the credits to applications where the investments will be made in cities that do not receive Local Government Aid.

SF 2152 (Housley, R, St. Mary's Point, 4351)
Creates a credit against the individual income tax equal to $1,000 for each child under the age of five the filers is the parent or guardian of and who otherwise meets the criteria for being claimed as a dependent. Prohibits a married filer from claiming the credit unless a joint return is filed. Provides directions on how the claim should be treated in the event of a claimant's death.

SF 2199 (Rest, DFL, New Hope, 2889)
Waives, upon application, any penalties associated with individual income tax underpayments for tax years 2018 and 2019 if the total tax liability, after the application of any credits, is less than $1,000. Directs that taxpayers applying for the waiver attest that the underpayment of estimated tax is due to uncertainties in tax planning resulting from the enactment of the Tax Cuts and Jobs Act.

SF 2501, SF 2503, and SF 2506 (Rest, DFL, New Hope, 2889)
Allows filers with earned income or adjusted gross income exceeding the income limitation for the federal Earned Income Tax Credit (EITC) to qualify for the Working Family Credit (WFC), so long as the filer is otherwise eligible for the EITC. Both SF 2501 and SF 2503 increase the WFC for filers with three or more children as follows:

Current Law/ Proposed Law	Maximum Credit	Phaseout Threshold	Maximum Qualifying Income
Unmarried Filers			
Current – TY 19	$2,156	$27,000	$46,936
Proposed – TY 20	$2,346	$27,000	$52,871
Married Filers			
Current – TY 19	$2,156	$32,840	$52,776
Proposed – TY 20	$2,346	$32,840	$58,711

SF 2501 further increases the WFC for filers no qualifying children as follows:

Current Law/ Proposed Law	Maximum Credit	Phaseout Threshold	Maximum Qualifying Income
Unmarried Filers			
Current – TY 19	$139	$8,730	$15,667
Proposed – TY 20	$199	$12,640	$19,280
Married Filers			
Current – TY 19	$139	$14,570	$21,507
Proposed – TY 20	$199	$18,480	$25,120

HF 1825 increases the WFC for all filers as follows:

Current Law/ Proposed Law	Child-ren	Maximum Credit	Phaseout Threshold	Maximum Qualifying Income
Unmarried Filers				
Current Tax Year 19	0	$139	$8,730	$15,667
	1	$1,117	$22,770	$41,330
	2	$2,156	$27,000	$46,936
	3	$2,156	$27,000	$46,936
Proposed Tax Year 20	0	$200	$12,710	$19,317
	1	$1,117	$22,710	$44,195
	2	$2,156	$29,500	$49,425
	3	$2,346	$29,500	$55,371

Current Law/ Proposed Law	Child-ren	Maximum Credit	Phaseout Threshold	Maximum Qualifying Income
Married Filers				
Current Tax Year 19	0	$139	$14,570	$21,507
	1	$1,117	$28,610	$47,170
	2	$2,156	$32,840	$52,776
	3	$2,156	$32,840	$52,776
Proposed Tax Year 20	0	$200	$18,550	$25,157
	1	$1,117	$28,550	$50,035
	2	$2,156	$35,340	$55,265
	3	$2,346	$35,340	$61,211

SF 2503 is the companion to HF 1795 (Brand, DFL-St. Peter); and SF 2506 is the companion to HF 1825 (Loeffler, DFL-Minneapolis); both of which were summarized in Spotlight 19-04.

SF 2507 (Rest, DFL, New Hope, 2889)
Increases the maximum Working Family Credit for filers with no dependents from $139 to $300. Increases the phaseout threshold by $2,770; from $8,730 to $11,500 for unmarried claimants and from $14,570 to $17,340 for married claimants. Increases the income level at which the credit is fully phased out by $4,925; from $15,667 to $20,592 for unmarried claimants and from $21,507 to $26,432 for married claimants. Companion to HF 1620 (Gomez, DFL-Minneapolis) in Spotlight 19-04.

Mining Taxes (including Aggregate)

HF 2404 (Lislegard, DFL, Aurora, 0170); and SF 2200 (Tomassoni, DFL, Chisholm, 8017)
Makes any city located within six miles of five other cities that currently receive distributions from the taconite municipal aid account also eligible for such distributions, provided the city is located in an eligible county.

MinnesotaCare Taxes

HF 2459 (Loeffler, DFL, Minneapolis, 4219); and SF 2462 (Hayden, DFL, Minneapolis, 4261)
Repeals the repeal of the MinnesotaCare provider taxes.

Motor Vehicle Registration Taxes

HF 2026 (Theis, R, St. Cloud, 6316)
Increases the annual vehicle registration tax surcharge for all-electric vehicles from $75 to $250. Establishes an annual vehicle registration tax surcharge of $125 on hybrid vehicles. Companion SF 1409 (Howe, R-Rockville) in Spotlight 19-04.

Motor Vehicle Rental Tax

HF 1991 (McDonald, R, Delano, 4336)
Repeals the extra tax on short-term (28 days or less) motor vehicle rentals.

The tax is equal to 9.2% of the vehicle's sales price.

Property Tax (except Aids, Credits, & Refunds; & TIF)

HF 2096 (Nornes, R, Fergus Falls, 4946)
Extends class 1c property classification ("mom and pop" resorts) to parcels where the title to the homestead is held by a shareholder of a corporation that owns the resort, a partner in the partnership that owns the resort, or a member of a limited liability company that owns the resorts. Directs that for purposes of 1c classification, residential occupancy on a temporary basis for workforce housing, including but not limited to housing of construction staff during short-term construction projects, is not a commercial purpose. Authorizes class 1c treatment for rented camping pads whose use exceeds 250 days. Increases the first tier for class 1c property from the first $600,000 to the first $750,000 of market value. Increases the second tier for class 1c property from the subsequent $1.7 million to the subsequent $2 million of market value. Companion to SF 1725 (Ingebrigtsen, R-Alexandria) in Spotlight 19-04.

HF 2136 (Drazkowski, NR, Mazeppa, 2273); and SF 2131 (Chamberlain, R, Lino Lakes, 1253)
Requires that, when owners of utility or railroad property appeal their valuations, the disputed taxes be paid when the they become due and be placed into an escrow account pending final resolution of the appeal. Directs that any repayment related to the appeal be paid first from the escrow account.

Yet another response to the hullabaloo generated by the court ruling that the Department of Revenue has overassessed utility-owned property.

HF 2141 (Marquart, DFL, Dilworth, 6829)
Makes a variety of changes to homestead determinations. A complete summary is beyond the scope of *Legislative Spotlight*; we will provide detail legislative staff and Revenue Department materials when they become available. Companion to SF 1758 (Weber, R-Luverne) on Spotlight 19-04.

HF 2199 (Hertaus, R, Greenfield, 9188)
Lowers the class rate for unclassified manufactured homes from 1.25% to 0.75%. Lowers the class rate for certain manufactured home parks from either 1.25% or 1.00%, as appropriate, to 0.75% (the lowest rate now available to select manufactured home parks). Repeals provisions creating class I manufactured home parks.

HF 2275 (Poppe, DFL, Austin, 4193)
Provides that watershed districts may use grants from state agencies besides the Pollution Control Agency to finance drainage-related projects. Companion to SF 1391 (Lang, R-Olivia), which was introduced on 2/18/2019 but nor summarized in any previous edition of *Legislative Spotlight*.

HF 2278 (Hansen, DFL, South St. Paul, 6828)
Eliminates the $250,000 cap on watershed district general fund levies. Modifies the use of general fund dollars for general administrative expenses and construction or implementation and maintenance of district projects from permissive to mandatory.

HF 2332 (Gomez, DFL, Minneapolis, 7152)
Repeals the property tax exemption for manure pits. Companion to SF 1657 (Eaton, DFL-Brooklyn Center) in Spotlight 19-04.

HF 2424 (Davids, R, Preston, 9278)
Lowers the class 4d (low-income rental housing) class rate for the first tier of value (the first $121,000 for payable 2018) per unit from 0.75% to 0.25%.

A reminder that class 4d property is valued on a unit by unit basis; and that all value above the first tier is already taxed on 0.25% of value.

SF 2470 (Koran, R, North Branch, 5419)
Provides that bed and breakfast properties on which the owner does not maintain a homestead may qualify for class 4c(9) treatment (with a 1.25% class rate) if the owner's homestead is located within three miles of the property. Extends class 4c(9) treatment to bed and breakfast properties which provide an areas with permanently installed appliances used for cooking and preparing meals in lieu of providing meals to persons renting rooms. Restricts property owners from owning more than two properties classified class 4c(9) (although persons may own third and subsequent bed and breakfasts which simply do not qualify for this favorable treatment).

Property Tax – Aids, Credits, & Refunds

HF 2031 (Hertaus, R, Greenfield, 9188)
Creates an aid program for cities which receive nothing through the Local Government Aid program. Dedicates 2% of the total Local Government Aid appropriation to finance the program. Sets the base aid amount equal to the lesser of $40 times the city's population or $60,000. Distributes all dollars not allocated through the base formula to all qualifying cities equally on a per capita basis. Increases the Local Government Aid appropriation by $30.6 million, from $534.4 million in aids payable in 2019 to $565.0 million in aids payable in 2020.

HF 2348 (Loeffler, DFL, Minneapolis, 4219); and HF 2485 (Bahner, DFL, Maple Grove, 5502)
Both bills increase the maximum homestead credit refund (i.e. the "circuit-breaker" refund) from $2,770 to $3,340 and increase refund amounts at other income levels in such a way so that the proportional increase gets larger as household income falls. HF 2485 eliminates the maximum income at which a refund may be claimed (currently $113,150 for refund claims filed in 2019). Sets the portion of the property tax bill for which filers with household income of $126,070 must pay at 3% of their income, with the state refunding the lesser of 50% of any amount above that or $500.

The DFL mantra on tax progressivity comes squarely into contact with the realities of winning exurban seats with HF 2485, which has the prospect of delivering property tax relief to taxpayers in the 9th and 10th population deciles.

With regard to both proposals, the question has to be asked: given our already very generous and accessible refund program structure, is this really the highest and best use of in-demand general fund dollars?

HF 2349 (Loeffler, DFL, Minneapolis, 4219)
Increases the maximum renters' property tax refund from $2,150 to $2,200 and substantially increases the maximum refund at various household income ranges. Modifies the refund schedule so that the household income level at which the refund phases out increases from $61,320 to $90,000.

See our comment on HF 2348 above.

SF 1937 (Dahms, R, Redwood Falls, 8138)
Creates a state-paid property tax credit equal to the total property taxes on any portion of agricultural property containing a riparian buffer complying with the state's riparian buffer laws. Directs county auditors to apply the credit to qualifying landowners' property tax bills and provides for state reimbursement. Companion to HF 1430 (Torkelson, R-Hanska) in Spotlight 19-04.

SF 1939 (Chamberlain, R, Lino Lakes, 1253)
Increases the Local Government Aid appropriation by $15 million, from $534.4 million in aids payable 2019 to $549.4 million in aids payable 2020. Directs the entire increase to cities under 5,000 through a one-time modification of the aid gap percentage calculations.

Based on our calculations, this proposal would provide a 9-10% increase in the LGA distribution these small cities receive.

Property Tax – Tax Increment Financing

HF 1950 (Youakim, DFL, Hopkins, 9889); and SF 2076 (Latz, DFL, St. Louis Park, 7-8065)
Modifies the special rules already in place for tax increment financing district 2-11 in the city of Hopkins.

HF 2147 (Franson, R, Alexandria, 3201); and SF 2133 (Ingebrigtsen, R, Alexandria, 7-8063)
Extends the five-year rule for TIF District Number 50 in the city of Alexandria.

Sales Tax

HF 1943 (Kresha, R, Little Falls, 4247)
Dedicates the general sales tax revenue related to motor vehicle repair and replacement parts as follows: 95% to the highway user tax distribution fund and 5% to the small cities assistance account (i.e., to fund state and local roads and bridges). Authorizes $400 million in bonding for the corridors of commerce program. Companion to SF 1909 (Howe, R-Rockville) in Spotlight 19-04, where there is a comment.

HF 1970 (Youakim, DFL, Hopkins, 9889)
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 over a period longer than 20 years. Companion to SF 1272 (Rest, DFL-New Hope) in Spotlight 19-03.

HF 1987 (O'Driscoll, R, Sartell, 7808); and SF 1998 (Howe, R, Rockville, 2084)
Authorizes the city of Sartell to impose a 1.5% local food and beverage gross receipts tax. Dedicates these revenues to finance the capital or operational costs for new and existing recreational

facilities and amenities within the city. Stipulates that authorizes expenses include paying debt service on bonds or other obligations issued to finance construction and improvement projects.

HF 2067 (Hansen, DFL, South St. Paul, 6828); and SF 1949 (Ingebrigtsen, R, Alexandria, 7-8063)

Dedicates, under certain circumstances, a portion of the general sales tax revenues attributable to dry cleaning services to finance costs associated with the environmental costs of dry cleaning. Limits the transfer in any year to the lesser of the amount needed to bring the dry cleaner environmental response and reimbursement account (which has multiple revenue sources) to $1.5 million or 30% such sales tax revenues. Includes other provisions relating to dry cleaner fees.

HF 2088 (Daniels, R, Faribault, 8237); and SF 2100 (Draheim, R, Madison Lake, 5558)

Exempts purchases of construction-related materials, supplies, and equipment incorporated into the construction, remodeling, expansion or improvement of a government services building owned and operated by Rice County. Provides that the exemption applies to "related facilities", which includes access roads, lighting, sidewalks, and utility components on or adjacent to the relevant property tax that are necessary for safe access to and use of the buildings. Requires that the tax be collected upfront at the time of purchase and refunded upon application. Limits the total exemption to $300,000. Effective retroactively for sales and purchases made between 9/1/2018 and 12/31/2020.

HF 2090 (Davids, R, Preston, 9278); and SF 2052 (Howe, R, Rockville, 2084)

Authorizes a blanket sales tax exemption for local governments' purchases of construction-related materials, supplies, and equipment incorporated into the construction, remodeling, expansion or improvement of a police or fire station owned and operated by a local government. Provides that the exemption applies to "related facilities", which includes access roads, lighting, sidewalks, and utility components on or adjacent to the relevant property tax that are necessary for safe access to and use of the buildings. Requires that the tax be collected upfront at the time of purchase and refunded upon application.

HF 2219 (Davids, R, Preston, 9278)

Exempts property awarded as prizes in connection with lawful gambling from the sales and use taxes. Exempts the lease or purchase of gambling equipment by an organization licensed to conduct lawful gambling from the sales and use taxes. Removes the requirements that sales taxes on a distributor's sale of pull-tabs and tipboards be imposed on the retail sales price. Companion to SF 0845 (Relph, R-St. Cloud) in Spotlight 19-03.

HF 2402 (Hamilton, R, Mountain Lake, 5373); and SF 2481 (Weber, R, Luverne, 5650)

Exempts the purchase of building materials, supplies, and equipment incorporated into a wastewater facility owned and operated by the city of Windom. Requires that such taxes be paid upfront and then be refunded upon application. Effective for purchases made retroactively to 10/1/2018 through 12/31/2020.

HF 2472 (Youakim, DFL, Hopkins, 9889); and SF 2469 (Latz, DFL, St. Louis Park, 7-8065)

Exempts purchases of construction-related materials, supplies, and equipment incorporated into the construction, remodeling, expansion or improvement of an interpretive center and related facilities owned and operated by the city of St. Louis Park. Provides that the exemption applies to "related facilities", which includes access roads, lighting, sidewalks, and utility components on or adjacent to the relevant property tax that are necessary for safe access to and use of the buildings. Requires that the tax be collected upfront at the time of purchase and refunded upon application. Effective retroactively for sales and purchases made between 4/2/2019 and through an unstated date.

SF 1947 (Dahms, R, Redwood Falls, 8138)

Exempts building materials and supplies used in the remodeling, upgrading, and expansion of the Minneota school district's school building from the sales and use taxes. Requires that such taxes be paid upfront and then be refunded upon application. Effective for purchases made between 1/2/2018 and 12/31/2020. Companion to HF 1442 (Swedzinski, R-Ghent) in Spotlight 19-04.

SF 2008 (Rarick, R, Pine City, 0293)

Moderates the conditions for participating in the Greater Minnesota Job Expansion Refund Program by requiring that an applicant have operated a business anywhere in Minnesota for at least one year and be operating in a location outside the seven-county metro at the time of applying for the program (instead of having operated the business outside the seven-county metro for an entire year). Exempts improvements to real property owned or leased by a business during the period when it participates in this program from the state general levy. Companion to HF 1689 (Brand, DFL-St. Peter) in Spotlight 19-04, where there is a comment.

EDUCATION – FINANCE

HF 2207 (Davnie, DFL, Minneapolis, 0173); and SF 2347 (Nelson, R, Rochester, 4848)

These are the governor's education finance proposals. Among other things, they increase the existing $6,312 per-pupil basic education aid allowance by 3% in FY 2020 (to $6,501) and by 2% in FY 2021 and thereafter (to $6,631).

ELECTIONS

HF 2117 (Freiberg, DFL, Golden Valley, 4176)

Enacts the Agreement Among the States to Elect the President by National Popular Vote. The two bills are identical. Companion to SF 0189 (Rest, DFL-New Hope) in Spotlight 19-01, where there is a comment with more information.

HF 2423 (Dehn, DFL, Minneapolis, 8659)

Proposes to amend the Minnesota Constitution to give local jurisdictions the authority to lower the voting age from 18 to 16 for offices and ballot questions relevant to that jurisdiction. Includes contingent language implementing the proposal in statute in the event the proposal is approved by voters.

SF 1981 (Hoffman, DFL, Champlin, 4154)
Authorizes individuals under the age of 18 to vote at a primary election if the person meets all other eligibility requirements for voting and will turn 18 by the date of the general election. Limits the individual's ability to vote only to candidates seeking election for office.

SF 2042 (Marty, DFL, Roseville, 5645)
Prohibits political parties making independent expenditures from participating in the state's public subsidy program.

SF 2424 (Eken, DFL, Twin Valley, 3205)
Authorizes cities, counties, townships, and school districts to adopt ranked-choice voting for local offices. Establishes procedures for its adoption, implementation, and use. Companion to HF 0983 (Elkins, DFL-Bloomington) in Spotlight 19-03.

LABOR

HF 2072 (Sundin, DFL, Esko, 4308)
Proposes to amend the Minnesota Constitution to grant public and private employees the constitutional right to organize bargain collectively through labor unions; invalidate state and local laws that limit the ability to join unions and bargain collectively. Further proposes to amend the state Constitution to prohibit laws that limit the right to collectively bargain for compensation and other conditions of employment that exceed minimums in state law or to interfere in the financial relationship between employees and their union as agreed to through collective bargaining. Companion to SF 1244 (Klein, DFL-Mendota Heights) in Spotlight 19-03.

LEGISLATURE

HF 2391 (Gomez, DFL, Minneapolis, 7152)
Prohibits former legislators, former directors of legislative caucuses, and former legislative committee administrators from registering as a lobbyist for a two-year period after leaving the relevant position. Excepts lobbying as an employee of the state, as a nonelected local official, as an employee of a political subdivision, or as a volunteer from the restrictions.

HF 2421 (Schultz, DFL, Duluth, 2228); and SF 2255 (Kiffmeyer, R, Big Lake, 5655)
Proposes to amend the Minnesota Constitution to establish a four-member redistricting commission with the authority to adopt redistricting plans independently from the legislative process. Provides that the majority and minority caucuses from each legislative chamber appoint one member. Prohibits current or former judges from serving on the commission. Requires any plan must be approved by at least three of the four members to be effective. Enacts into law a set of criteria to be used in creating legislative districts.

SF 1968 (Cohen, DFL, St. Paul, 5931)
Eliminates the Legislative Budget Office. Companion to HF 0123 (Nelson, DFL-Brooklyn Park) in Spotlight 19-01, where there is a comment.

SF 2036 (Marty, DFL, Roseville, 5645)
Requires that any negotiations between Senate and House members of a conference committee, or between Senate and House staff members related to a conference committee, must be open to the public. Requires that any meeting between the majority leader of the Senate and the House Speaker or House majority leader to negotiate budget targets or formally negotiate the state budget must be open to the public. Requires any meeting to negotiate budget targets or formally negotiate the state budget must be open to the public if it involves the governor and at least one of the following: the majority leader of the Senate, the House Speaker, the House majority leader, or the minority leader of either legislative chamber.

While we're at the "more transparency is better" buffet, a friendly amendment directly relevant to these state budget negotiations: all collective bargaining negotiations between government and public sector unions must be open to the public without exception. Only then can we accurately determine how well the public interest in state budget development is being balanced with private interests.

SF 2039 (Marty, DFL, Roseville, 5645)
Prohibits legislators, constitutional officers, commissioners, deputy commissioners, assistant commissioners, or the head of any state department of agency from acting as a lobbyist to influence legislative or administrative action until seven years have passed since leaving the relevant office or position.

SF 2187 (Mathews, R, Milaca, 8075)
Proposes to amend the Minnesota Constitution to prohibit the title of a bill from being amended after its introduction except to reflect changes to the bill that further limit its scope. Proposes to further amend the constitution so that, in the event the Minnesota Supreme Court deems a bill constituting a portion of the state's biennial budget unconstitutional for violating this provision, funding for any affected portions of state government will be available at 95% of the previous level until subsequent appropriations are made. Companion to HF 0986 (Bahr, NR-East Bethel) in Spotlight 19-03, where there is a comment.

SF 2233 (Isaacson, DFL, Shoreview, 5537)
Proposes to amend the Minnesota Constitution to establish a redistricting commission with the authority to adopt redistricting plans independently from the legislative process. Proposes that such a commission be comprised of retired state judges, with one judge each appointed by the leaders of the four legislative caucuses and that a fifth judge be appointed by those four appointees. Companion to HF 1855 (Schultz, DFL-Duluth) in Spotlight 19-04, where there is a comment.

SF 2489 (Jensen, R, Chaska, 4837)
Prohibits legislators from receiving per diem living expenses during special session called to enact major finance and revenue bills or bills constituting the state general budget.

PENSIONS

HF 2294 (Long, DFL, Minneapolis, 5375); and SF 2277 (Pappas, DFL, St. Paul, 1802)

Prohibits the State Board of Investment from making investments in stocks, debt, or other securities related to fossil fuel companies. Requires the SBI to divest its current investments in such by 7/1/24.

The only thing that could make our pension situation even more precarious would be to prevent the SBI from doing its fiduciary duty. The sole responsibility of a state board of investment is to earn the rates of return required for the system. When they pursue moral goals at the risk of financial return, the manager is putting people's retirements and taxpayers at risk. We have more than enough of that already.

HF 2512 (Long, DFL, Minneapolis, 5375); and SF 2515 (Dziedzic, DFL, Minneapolis, 7809)

Makes the two-year temporary additional $10 million state supplemental payment to PERA related to its former MERF division permanent.

This two-year modification reduced the city's contributions to PERA for the former MERF plan from $31 million to $21 million and increased the state's contributions from $6 million to $16 million.

STATE AND LOCAL GOVERNMENT

HF 2256 (Theis, R, St. Cloud, 6316)

Creates a 12-member Minnesota Government Accountability Commission with two voting members appointed by the minority and majority causes in each legislative chamber and four nonvoting members appointed by the governor. Directs the commission to provide recommendations annually on whether to abolish, continue, or reorganize state agencies, commissions, or other advisory bodies; whether programs within those agencies should be consolidated, transferred, or modified; and how to improve the operations of such entities. Provides a set of criteria to be used in the commission's review of such bodies. Places all such bodies into one of six groups, resulting in 12-year periods between each body's review by the commission. Directs the commission to hire an executive director and provides that additional staff may be hired. Appropriates an undetermined amount of money for the commission.

This is reminiscent of the aborted "sunset commission" of a few years back. It's an interesting and potentially very beneficial initiative if it could be pursued objectively without political bias, prejudice, or special interest influence – which makes it likely a non-starter. If we can't incorporate a simple tax expenditure review into our budget processes without the white blood cells of special interests mobilizing to attack the threat, imagine what kind of immune response this would trigger.

HF 2312 (Vogel, R, Elko New Market, 7065)

Provides for zero-based budgeting in state government. Provides that, once every ten years using a rotating schedule, state agencies engage in zero-based budgeting. Directs that the state's economic forecast concurrently use a zero-based budget when estimating expenditures for state agencies engaged in the zero-based budgeting process. Companion to SF 1875 (Draheim, R-Madison Lake) in Spotlight 19-04, where there is a comment.

HF 2387 (Murphy, DFL, Hermantown, 2676), by request; and SF 2488 (Rosen, R, Vernon Center, 5713)

Extends the sunset for the state aid paid to local governments related to their PERA contributions from 6/30/2020 to the earlier of June 30 of the fiscal year following a fiscal year in which PERA's general plan reports a funded ratio of at least 100%, or 6/30/2048.

In other words, this proposal would extend state aid payments for about thirty years, to June 30, 2048.

HF 2473 (Nash, R, Waconia, 4282)

Prohibits local governments from imposing a new excise tax or fee or increasing an existing excise tax or fee on the manufacture, distribution, wholesale, or retail sale of food or on any container used for transporting, protecting, or consuming food. Stipulates that the provisions do not apply to reasonable license fees imposed by a local government in the exercise of its regulatory authority. Companion to SF 1173 (Mathews, R-Milaca) in Spotlight 19-03, where there is a comment.

HF 2501 (Howard, DFL, Richfield, 7158); and SF 2478 (Bakk, DFL, Cook, 8881)

Permits cities and townships to make expenditures from their general funds for city and town historical societies.

TAX ADMINISTRATION/GENERAL POLICY

HF 2091 (Davids, R, Preston, 9278); and SF 2055 (Chamberlain, R, Lino Lakes, 1253)

Authorizes retailers or sellers to retain the lesser of 0.25% of the sales taxes they collect in any reporting period, up to $250, as compensation for the costs of collecting and administering the tax as follows. Prohibits the vendor allowance from reducing the tax the vendor owes to the state in the reporting period to less than zero.

Minnesota, unlike some other states, does not reimburse vendors for the administrative costs associated with collecting and remitting sales and use taxes to the state. This proposal would make some provision for those costs – which are probably most burdensome for smaller businesses. As a reminder, the mandatory reporting periods vary based on volume of sales subject to tax – the period can be monthly, quarterly, or yearly.

HF 2286 (Loeffler, DFL, Minneapolis, 4219)

Establishes an automated system to be administered by the Department of Revenue for generating certificates of rent paid. Requires DOR to annually prepare and publish a report on rents in Minnesota using data from the system. Appropriates an undetermined amount of money for this purpose.

TRANSPORTATION

HF 2174 (Wolgamott, DFL, St. Cloud, 6612); and SF 2420 (Frentz, DFL, North Mankato, 6153)

Redistributes 12.5% of the 5% highway user tax distribution set aside away from the flexible highway account and into a newly-created small cities account. Distributes money from fund to small cities in the same manner as the small cities assistant account does (basically, to all cities with a population of 5,000 or less). Limits use of these funds to construction, reconstruction, and maintenance of city roads within the city. Requires an equal general fund appropriation to a newly-created large cities account to be distributed in the same manners as municipal state aid.

HF 2194 (Elkins, DFL, Bloomington, 7803); and SF 2087 (Anderson, P., R, Plymouth, 9261)

Eliminates statutory language prohibiting allocation of motor vehicle lease sales tax revenue to Hennepin and Ramsey Counties (which are the only two counties that do not receive these revenues).

HF 2296 (Tabke, DFL, Shakopee, 8872); and SF 2442 (Pratt, R, Prior Lake, 4123)

Authorizes municipalities to charge a street impact fee on newly approved subdivisions, based on their net buildable acreage, its impact on the municipality's transportation system, or the municipality's transportation plan. Restricts the use of fee revenues to acquisition and construction, maintenance, or improvement of streets, roads, intersections, and related transportation infrastructure based on the municipality's approved transportation plan. Requires an "essential nexus" between the fees imposed and the municipal purpose such fees seek to achieve. Directs that the fee must "bear a rough proportionality" to the need created by the proposed subdivision or development.

HF 2403 (Hornstein, DFL, Minneapolis, 9281); and SF 2360 (Dibble, DFL, Minneapolis, 4191)

These are the governor's transportation finance initiatives. Increases the gas tax as by 5¢ per gallon on 10/1/2019, 4/1/2020, 10/1/2020, and 4/1/2021, increasing the total rate from 28.5¢ to 48.5¢ per gallon. Increases the rates on E85, M85, liquified petroleum gas or propane, liquified natural gas, and compressed natural gas by proportionate amounts over the same period. Directs that all these fuel tax rates be indexed for inflation using the CPI annually each April 1. Prohibits the rates from falling below their 4/1/2021 levels. Increases the motor vehicle registration tax on passenger cares, pickup trucks, and vans from $10 plus 1.25% of base value to $45 plus 1.5% of base value. Modifies the base value calculation to slow the depreciation of the vehicle between the second and ninth years of the vehicle's life. Eliminates the dedication of sales tax revenues on auto parts and rental cars for transportation purposes. Increases the motor vehicle sales tax rate from 6.5% to 6.875%. Also includes other provisions dealing with transportation finance and policy.

Google the phrase "why does public infrastructure in America cost so much" and you get over 272 million hits. A cursory review of the first few pages suggests that 1) empirically this is absolutely true compared to other countries, and 2) there are a lot of reasons for this and accompanying avenues to explore in order to reduce those costs. We actually like the gas tax and related user fees on good tax policy grounds and confess frustration with reflexive objection to any increase. But we think the governor's heaping dose of transportation finance medicine would go down a lot easier if there was some indication that due diligence and recommendations on expenditure improvements were also part of the plan.

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