



2019 Legislative Session Summary

No Compromise – Status Quo Transportation Budget

The 2019 Legislative Session concluded in a rather unprecedented way. While special sessions have become pretty common, the end of the 2019 Session was marked by more than the usual closed-door negotiating among the governor, house speaker and senate majority leader as agreement on an overall global budget did not occur until May 19th and the last day to pass bills for the 2019 regular session was May 20th. As the only state with a divided state legislature – GOP controls the Senate and DFL controls the House – the two sides started very far apart in their efforts to put together a two-year state budget.

In the end, Governor Walz called the legislature back into special session on May 24th. It was not clear if all of the budget bills could be passed in the timeline the leadership set out which was basically one day. The legislature did manage to pass all of the budget bills needed in time, but was not able to agree on a capital bonding bill.

For transportation funding, it was the tax or no tax battle that we have experienced in many previous sessions. While the general fund budget surplus shrank in February to about \$1 billion for the coming biennium, which was largely seen as a one-time surplus with not so rosy numbers in the following biennium, the GOP majority in the Senate insisted that they could not justify an increase in the fuel tax when the state had a surplus of tax dollars. Unfortunately, the Senate did not propose using any of that general fund surplus for roads and bridges. The Senate transportation budget bill maintained the current law funding levels while spending more from the Trunk Highway Fund on state road construction. The bill left Metropolitan Area transit with a significant budget deficit in the out years as the general fund appropriation includes one-time funding.

Governor Walz and the House DFL majority developed a very ambitious funding package that included a number of tax increases while simultaneously repealing the statutory dedication of the sales tax revenue from rental vehicles, \$32 million of the sales tax on leased vehicles and the \$145.6 million per year in sales tax from auto repair parts.

The House bill included:

- A 20-cent increase in the fuel tax phased-in over 4 years - \$581 million FY20-21, \$1 billion FY22-23 biennium
- An increase in the motor vehicle registration tax - \$471 million FY20-21, \$659 million FY22-23
- An increase in the MVST from 6.5% to 6.875% - \$52 million FY20-21, \$71 million FY22-23

- a new ½ cent sales tax in the seven-county metro area - \$395 million FY20-21, \$590 million FY22-23.
- Change in MVST allocation from 60/40 highways/transit to 57/43 highways/transit providing additional funding of \$22 million for the biennium for Greater MN transit.
- Change in MVLST distribution to provide ongoing revenue for small cities - \$21.2 million FY20-21, \$24 million FY22-23.
- Authorized a total of \$2 billion in trunk highway bonding, made available over fiscal years 2022-28. Of this amount, \$1.7 billion was for state road construction and \$300 million was for the Corridors of Commerce program.

The two parties seemed to position themselves for negotiations that never really happened. Transportation taxes were not considered by the Senate. The Senate went along with maintaining the health care provider tax (at 1.8%) which was set to sunset and tax conformity legislation. The Senate also agreed to increase funding for K-12 Education by over \$500 million for the biennium.

When the global budget deal was announced, transportation was allocated \$93.5 million in general fund dollars for the biennium. This funding was to be distributed:

- Metro Mobility – FY2020 \$23.19 million, FY2021 additional \$13 million (if available)
- Deputy Registrar reimbursement - \$13 million
- MnLARS replacement system - \$55.67 million
- Disaster Contingency Account - \$20 million (if available)

The Transportation budget bill agreed to by the House, Senate and Governor is largely a status quo budget that maintains the statutory dedications of sales tax revenues but does not increase revenue into the future. The sales taxes on leased vehicles and rental vehicles are likely to grow in the future but will not generate large amounts of funding. The dedication of the sales tax on auto repair parts is capped at \$145.6 million per year (about half of the total amount brought in through that sales tax) and that was not changed.

Overall, the transportation budget bill provides \$264.6 million or about 4% in all funds for all agencies more than in the previous biennium. The bill includes \$8 million less in general fund dollars than the budget for last biennium overall.

Thanks to the statutory dedication of sales tax revenue passed in 2017 and some natural growth in constitutionally dedicated revenue sources, there is an increase in funding for state roads of \$53 million over the previous biennium. The breakdown by area:

Operations and Maintenance – Increase of \$58 million over the previous biennium
 Planning and Research – Cut of \$3 million over the previous biennium
 Program Delivery – Increase of \$24,000 over the previous biennium
 State Road Construction – Cut of \$23.5 million over the previous biennium
 Corridors of Commerce cash – No change: \$50 million for the biennium
 Highway Debt Service – Increase of \$20.8 million over the previous biennium
 Statewide Radio Communications – Increase of \$671,000 over the previous biennium

Other MnDOT appropriations:

Agency Management – Increase of \$19.3 million over previous biennium
 Buildings – Increase of \$33.2 million over previous biennium

A general fund appropriation of \$1 million is provided for trunk highway corridor and bridge improvement studies, which may include evaluation of safety improvements on trunk highways and a feasibility study of river crossings that connect trunk highways.

For County State Aid Funds (CSAH) there is an increase of \$128.3 million over the previous biennium or about \$64 million more per year. For the FY18-19 biennium, there had been a one-time general fund appropriation of \$10 million for suburban counties.

The funding bill includes an increase of \$32 million in Municipal State Aid Funds (MSAS) or \$16 million per year over the previous biennium. One-time funding for small cities assistance (\$16M) provided last biennium was not renewed. The one-time funding of \$4 million for town roads was also not renewed.

Changes made in 2017 to the statutory dedication of the motor vehicle lease sales tax ended the transfer of the first \$32 million to the general fund. The lease vehicle sales tax (MVLAST) is distributed: 38% to CSAH, 38% to Greater Minnesota Transit Account, 13% to Minnesota state transportation fund (for a new local bridge program) and 11% to HUTDF.

The Omnibus Transportation Budget bill maintains the statutory dedication of the sales tax on leased motor vehicles (MVLST). The statutory dedication will provide for FY20-21

- \$22.6 million for HUTDF
- \$7.2 million for suburban counties
- \$7.2 million for Greater MN transit
- \$26.7 million for Local Bridges

The bill does not change current funding for Greater Minnesota transit. For Metropolitan Area Transit, the final bill separates the base general fund appropriation of \$179.6 million for the biennium into one appropriation for transit operations (\$65.3M) and another appropriation for Metro Mobility which is also increased from the base (\$137.5M). The Metro Mobility appropriation may increase by \$13 million for FY2021 if general fund receipts come in higher than projected. Language in the bill specifies that if FY2019 final closing balance in the general fund is at least \$33 million higher than projected, \$13 million will be provided for Metro Mobility and \$20 million will be transferred to the disaster assistance account. The total general fund appropriation for Metropolitan transit is \$47.8 million less than the total general fund appropriation for the FY18-19 biennium.

The Metropolitan Council is authorized to issue regional bonds for transit capital expenses in the amount of \$92.3 million for the next two years.

The bill includes an appropriation of \$200,000 for Minnesota Valley Transit Authority Route 495 and includes language expanding the Metro Mobility service area to include the City of Lakeville. Language in the bill extends the regional allocation to suburban systems of MVST for an additional two years. The bill also allocates \$650,000 in general fund dollars for a study of extending the North Star Commuter Line to the City of St. Cloud.

A total of \$5 million in existing federal Transportation Alternatives Program funds is shifted for FY2020 and FY2021 to the state active transportation program.

The Transportation Budget bill includes a number of policy provisions. The final bill includes:

- A requirement that the Legislative Auditor audit the programs and services administered by MnDOT and the Department of Public Safety.
- Authorization of data sharing between the Metropolitan Council and the Department of Human Services regarding special transportation services for people with disabilities and elderly individuals.
- A requirement that MnDOT and DPS submit a report in each odd-numbered year on expenditures and transfers from the trunk highway fund and HUTDF. An additional report is due in 2020.
- Designating the TH53 bridge the Tom Rukavina Memorial Bridge and designating a portion of highway between Jordan and US Highway 61 as the Richard J. Ames Memorial Highway.
- Modifies exceptions to penalties and required reregistration for some overweight vehicles transporting unfinished forest products, which includes having a variance calculation apply throughout the year instead of just during the winter weight increases.
- Permits a vehicle operating under an overweight permit for hauling raw or unfinished forest products to operate on Interstate 35 between Carlton County and Saint Louis County.
- Establishes per-axle and gross vehicle weight limits for emergency vehicles operated on interstates using limits established in federal law.
- Specifies the agricultural products that can be hauled under a special overweight vehicle permit.
- Authorization for cities to establish speed limits for city streets under the city's jurisdiction without conducting an engineering and traffic study. This does not apply to town roads, county highways or trunk highways in the city. A city that establishes a speed limit must implement changes in a consistent and understandable manner and must erect signs to display the speed limit. Expands the definition of "residential roadway" which has the effect of allowing cities and towns to adopt a 25 mph speed limit on residential roadways without a traffic engineering study.
- Allows semis and other large vehicles to deviate from the driving lane when approaching and going through a roundabout.
- Allows a person to apply to MnDOT for approval of a plan to use a vehicle platooning system on freeways and expressways.
- Provides an exemption to federal hours of service rules for drivers hauling utility construction materials within a 50-mile radius from the site of construction.
- Establishes a new air transportation services account in the state airport fund. Provides zoning requirements for airport property.

- Authorizes turnback of a number of state highways.
- Increases the threshold for a contract for work by direct negotiation with MnDOT from \$150,000 to \$250,000.
- Adds tribal governments as eligible for public transit financial assistance.
- Revises standards for wheelchair securement in vehicles used in transit and other non-private transportation services to conform to federal ADA requirements.
- Requires the City of Minneapolis to host rail safety meetings at least annually during Southwest light rail transit project construction.

A number of policy provisions under consideration were not included in the final bill including:

- Testing for autonomous vehicles
- An increase in the electric vehicle fee/changing how revenue from the fee is deposited
- Environment and climate reporting by MnDOT/Transportation goals and energy conservation
- Bicycle regulations
- Indian Employment preference
- Utility relocation costs
- Electric vehicle infrastructure requirements
- Dan Patch corridor prohibitions repeal
- Mileage-based user fee pilot program matching funds
- Changing requirements for use of MnPASS lanes
- Sewage septic tank truck weight limit exemption
- LRT operating and capital cost prohibition of state funds
- Ditch mowing permit moratorium

One of the items agreed to by the Governor, House Speaker and Senate Majority Leader was passage of a capital bonding bill of \$500 million with \$440 million in GO bonds and \$60 million in housing bonds. Passage of a bonding bill in the House requires 81 votes as opposed to a simple majority of 68 votes. That means passage would have required 8 Republicans to vote for the bill. House Minority Leader Kurt Daudt has said that his members were not included in the final agreement and would not support passage of a capital bonding bill and a bonding bill was not passed during the Special Session.

Other Legislation of Interest

➤ **Threatened and Endangered Species Exemption**

Language in the omnibus Environment and Natural Resources bill clarifies what is meant by “road” for purposes of an exemption from certain endangered species protections. Under current law, plats on ditches and roadways are exempt from provisions prohibiting the taking of an endangered species. This section replaces “roadway” with “an existing public road right-of-way” unless the ground has not previously been disturbed by construction or maintenance and includes the entire right-of-way including the traveled portions, banks, ditches, shoulders and medians of a roadway that is not privately owned.

➤ **Work Zone Safety – Obedience to a Flagger**

Allows a peace officer to issue a citation if the officer has probably cause to believe a person violated directions from a flagger if a qualified work zone flagger provides a report of a violation within four hours of the incident. Effective Aug 1, 2019.

➤ **Hands-Free Cell Phone Use While Driving**

Prohibits the use of a wireless communication device unless in voice-activated or hands-free mode. Exceptions are provided for using GPS device and for emergency use. Effective Aug 1, 2019.

➤ **Retainage**

When retainage is used for the design, building or repair of buildings, roads and bridges, new language requires subcontractors to have the same retainage percentage as prime contractors. The legislations also requires final payment to be released to the contractor within 60 days of the owner being able to occupy or use the improvement and requires all disputes related to retainage payments, incomplete work, or defective work in construction contracts in the state to be documented and provided by the owner to the contractors and to the subcontractors. If retainage is withheld for a contractor, any affected subcontractor must be notified. Retainage is not allowed for warranties or warranty work not known before substantial completion. The law applies to agreements entered into on or after Aug 1, 2019.