



**395 John Ireland Boulevard
Saint Paul, MN 55155**

May 17, 2020

The Honorable David Senjem
Chair, Capital Investment Committee
Minnesota Senate
3401 Minnesota Senate Building
95 University Avenue West
St. Paul, MN 55155

Dear Sen. Senjem:

Thank you for your efforts to assemble Senate File 3463, Senate capital investment bill. This legislation provides much-needed funding for several critical transportation programs.

I want to express my concern about the large number of earmarks in SF 3463. Earmarks circumvent the normal project selection process. At the legislature's direction and in response to a legislative audit, MnDOT recently implemented a new project selection policy. This revised process allows for enhanced transparency and public input. Legislative earmarks do not generally allow for such transparency and public input.

Earmarked projects often are not ready to begin construction. Indeed, most of the earmarked projects in SF 3463 are not shovel-ready. This means that construction will not get underway for years, despite setting an unrealistic expectation on the part of the public that projects that will move forward quickly once funds are available.

Earmarked appropriations often don't cover the entire cost of the project, meaning other projects will have to be delayed to cover the remaining funding gap. Several of the appropriations in SF 3463 are below MnDOT's current cost estimates for those projects. With falling revenues, it will be difficult to find the funds necessary to complete many of the earmarked projects in SF 3463.

The Governor's 2020 capital budget recommendation included \$172.5 million in trunk highway bonds for FY 2021. At this level, the trunk highway fund deficit would grow slightly compared to the interim budget projection, to \$10.9 million by the end of FY 2021. Any amount above the Governor's recommendation, including the current Senate proposal for \$400 million in trunk highway bonds, will reduce the already strained trunk highway fund balance in both the current biennium but even more substantially into future biennia. The significant amount of uncertainty related to transportation revenues calls for a more prudent and limited investment at this time.

In addition to the added pressure on the fund balance, the significant amount of earmarks in the Senate proposal for projects that are not currently planned, will strain the program delivery budgets and will compete with the same resources currently deployed in delivering the large construction program as planned in the State Transportation Improvement Program.

There was agreement with transportation leaders in the legislature to spend the summer discussing the project selection language in Article 2, Section 13 of your bill. This language is not ready to be enacted. First, MnDOT believes it is important to consult with stakeholders before this language is enacted. And second, this language does not clarify how MnDOT's current trunk highway project prioritization policy relates to this new proposed language.

Finally, I am reviewing the township road improvement grant program language in Article 2, Section 2 with my staff. The proposed statute is less than clear on what type of projects you intend to finance. The only constitutional provision that would apply is Article XI, Section 5(a) – a project must be a publicly owned capital improvement or betterment project, therefore having a minimum useful life of at least 10 years. Gravel roads likely have a much shorter useful life so would not qualify under constitutional standards. Township roads are certainly eligible to be funded through the local road improvement program, and several township projects have been funded through that program in the past.

Again, thank you for your work on the Senate capital investment bill. I look forward to working with you as we negotiate a final bonding bill that addresses the transportation needs of Minnesotans.

Sincerely,

A handwritten signature in black ink that reads "Margaret Anderson Kelliher". The signature is written in a cursive style with a large initial 'M'.

Margaret Anderson Kelliher
Commissioner

Cc: The Honorable Sandy Pappas, Ranking Minority Member, Senate Capital Investment Committee

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