DEPARTMENT OF REVENUE

Omnibus Tax Bill

July 28, 2021

	Yes	No
DOR Administrative Costs/Savings	X	

State Taxes Only -- See Separate Analysis of Property Tax Provisions

Department of Revenue
Analysis of Special Session Laws 2021, Chapter 14

	Fund Impact			
	F.Y. 2022	**F.Y. 2023**	**F.Y. 2024**	**F.Y. 2025**
		(000's)		
Federal Update				
Further Consolidated Appropriations Act				
Individual Income Tax	($11,680)	$900	$610	$300
Corporate Franchise Tax	($4,420)	$720	$590	$570
Subtotal	($16,100)	$1,620	$1,200	$870
CARES Act				
Individual Income Tax	($1,600)	$1,700	$0	$0
Subtotal	($1,600)	$1,700	$0	$0
Consolidated Appropriations Act 2021				
Individual Income Tax	($5,625)	($515)	($315)	($315)
Corporate Franchise Tax	($4,900)	($400)	($300)	($300)
Subtotal	($10,525)	($915)	($615)	($615)
PPP Loan Exclusion				
Individual Income Tax	($191,500)	($18,200)	($14,400)	($9,900)
Corporate Franchise Tax	($183,500)	($15,900)	($12,200)	($9,200)
Subtotal	($375,000)	($34,100)	($26,600)	($19,100)
Exclusion of Unemployment Insurance	($234,800)	$0	$0	$0
Individual Income Tax				
Angel Investment Credit TY2022 only	$0	($5,000)	$0	$0
Film Production Credit	($4,950)	($4,950)	($4,950)	($4,950)
Definition of Casualty Losses	$0	$0	$0	$0
Volunteer Drivers Subtraction	($30)	($30)	($30)	($30)
WFC for 19 and 20 Year Olds	($4,300)	($4,400)	($4,500)	($4,500)
Student Loan Credit	($500)	($500)	($500)	($500)
Minnesota Housing Tax Credit	$0	$0	($9,900)	($9,900)
Section 179 Carryovers	($3,800)	$1,000	$1,000	$1,000
Partnership Audits	($600)	($1,400)	($1,500)	($1,600)
Pass-through Entity Tax	$0	$0	$0	$0
Subtotal	($14,180)	($15,280)	($20,380)	($20,480)

	Fund Impact			
	F.Y. 2022	**F.Y. 2023**	**F.Y. 2024**	**F.Y. 2025**
	(000's)			
Corporate Franchise Tax				
Historic Rehabilitation Credit	($5,600)	($7,000)	($7,000)	($7,000)
Section 179 Carryovers	($1,400)	$400	$400	$400
Subtotal	($7,000)	($6,600)	($6,600)	($6,600)
Sales and Use Tax				
Certain Vendors – June Accelerated Payment	($12,100)	($500)	($500)	($500)
Collegiate Preferred Seating	($880)	($890)	($900)	($910)
Fundraising Sales for School Organizations	($640)	($670)	($690)	($720)
Construction – Public Safety Facilities	($1,980)	($4,140)	($4,290)	($4,440)
Fire and Police Station – Minnetonka	($190)	$0	$0	$0
Fire Station – City of Buffalo	($230)	$0	$0	$0
Fire Station – Maplewood	($220)	$0	$0	$0
Fire Stations – Plymouth	($70)	$0	$0	$0
Melrose Fire Remediation	$0	($60)	$0	$0
Alexandria Fire	($170)	($120)	$0	$0
Subtotal	($16,480)	($6,380)	($6,380)	($6,570)
Solid Waste Management Tax				
Weight-to-Volume Conversion	Unknown	Unknown	Unknown	Unknown
General Fund Total*	**($675,685)**	**($59,955)**	**($59,375)**	**($52,495)**
Natural Resources and Arts Funds				
Certain Vendors – June Accelerated Payment	($700)	(negl.)	(negl.)	(negl.)
Collegiate Preferred Seating	($50)	($50)	($50)	($50)
Fundraising Sales for School Organizations	($40)	($40)	($40)	($40)
Construction – Public Safety Facilities	($110)	($240)	($250)	($260)
Fire and Police Station – Minnetonka	($10)	$0	$0	$0
Fire Station – City of Buffalo	($10)	$0	$0	$0
Fire Station – Maplewood	($10)	$0	$0	$0
Fire Stations – Plymouth	($10)	$0	$0	$0
Melrose Fire Remediation	$0	($5)	$0	$0
Alexandria Fire	($10)	($10)	$0	$0
Natural Resources and Arts Funds Total	**($950)**	**($345)**	**($340)**	**($350)**
Environmental Fund				
Weight-to-Volume Conversion	Unknown	Unknown	Unknown	Unknown
Total* – All Funds	**($676,635)**	**($60,300)**	**($59,715)**	**($52,845)**

*Totals do not include the impact of the weight-to-volume conversion rates, which is unknown.

EXPLANATION AND ANALYSIS OF THE BILL

<u>Federal Update – Article 1</u>

The bill adopts specific provisions in the following the federal Acts:

- The Further Consolidated Appropriations Act, 2020 (Public Law 116-94), enacted December 20, 2019.
- The Coronavirus Aid, Relief, and Economic Security Act (Public Law 116-136), enacted March 27, 2020.
- The Consolidated Appropriations Act, 2021 (Public Law 116-260), enacted December 27, 2020.
- The American Rescue Plan Act (Public Law 117-2), enacted March 11, 2021.

Further Consolidated Appropriations Act, 2020 (FCAA 2020)

The bill adopts the following provisions in the Taxpayer Certainty and Disaster Tax Relief Act of 2019, Division Q of the FCAA 2020.

Sec. 101. Exclusion for Discharged Home Debt.
Sec. 116. Accelerated Depreciation for Business Property on an Indian Reservation
Sec. 117. Special Expensing Rules for Film and Theatrical Productions
Sec. 130. Special Depreciation Allowance for Second Generation Biofuel Plants
Sec. 131. Deduction for Energy Efficient Buildings.
Sec. 132. Special Rule for Sales of Certain Utility Property.
Sec. 144. Special Rule for the Production Period for Beer, Wine, and Distilled Spirits.
Sec. 201, 202. Special Rules for Disaster-Related Casualty Losses.
Sec. 204. Special Rule for Disaster-Related Withdrawals of Retirement Funds; Increased limit on Disaster-Related Charitable Contributions.

The bill also adopts the following section of the Setting Every Community Up for Retirement Enhancement Act, Division O of the FCAA 2020.

Section 301. Exclusion of Benefits for Volunteer Firefighters and Emergency Medical Responders.

- For all provisions, the estimates are based on the estimates for the federal legislation prepared by the staff of the Joint Committee on Taxation, dated December 21, 2020.
- Where applicable, the estimates were divided between the individual income tax and corporate franchise tax. The estimates for each provision were apportioned to Minnesota based on information relevant to that provision. The estimates were adjusted for the difference between federal and state tax rates and federal and state fiscal years.
- The House Income Tax Simulation Model (HITS 7.0) was used to estimate the reduction in marginal tax rates for tax year 2021. These simulations assume the same economic conditions used by Minnesota Management and Budget for the forecast published in November 2020. The model uses a stratified random sample of tax year 2018 individual income tax returns compiled by the Minnesota Department of Revenue.
- Retroactive impacts are allocated to fiscal year 2022. For other years, corporate franchise tax impacts are allocated 30% / 70% to fiscal years. Individual income tax impacts are allocated to the following fiscal year.

EXPLANATION AND ANALYSIS OF THE BILL (cont.)

Coronavirus Aid, Relief, and Economic Security (CARES) Act

The bill adopts the following provisions of the CARES Act:
Sec. 1106(i). Exclusion for Forgiven Paycheck Protection Program Loans.
Sec. 2202. Special Rule for Withdrawals of Retirement Funds for COVID-19 Related Expenses.

- The estimates are based on the estimates for the federal legislation prepared by the staff of the Joint Committee on Taxation, dated March 27, 2020.
- Where applicable, the estimates were divided between the individual income tax and corporate franchise tax. The estimates for each provision were apportioned to Minnesota based on information relevant to that provision. The estimates were adjusted for the difference between federal and state tax rates and federal and state fiscal years.

Consolidated Appropriations Act, 2021 (CAA 2021)

The bill adopts the following provisions of the Covid Related Tax Relief Act, Title II, Subtitle B of the CAA 2021:
Sec. 275. Modify educator expense deduction.
Sec. 276. Clarify Treatment of Forgiven PPP Loans.
Sec. 277. Exclusion for Emergency Financial Aid Grants.
Sec. 278(b). Exclusion for EIDL Loan Advances.
Sec. 278(c). Exclusion for Certain SBA Loan Assistance.

Paycheck Protection Program

The CARES Act established the Paycheck Protection Program (PPP) to provide low-interest loans to small businesses with less than 500 employees to assist with payroll, mortgage interest, rent, and utilities. The program was created and modified by the following Acts:

- The CARES Act appropriated up to $350 billion for low-interest loans.
- The Paycheck Protection Program and Health Care Enhancement Act (P.L. 116-139), enacted on April 24, 2020, appropriated an additional $310 billion to the Paycheck Protection Program.
- The Consolidated Appropriations Act, 2021 (CAA 2021) (P.L 116-260), enacted on December 27, 2020, appropriated an additional $284 billion to the program and revised the criteria for loan forgiveness.

The loans are to be spent over an 8-week to 24-week period for qualified business expenses. The total loan covers up to 2.25 times the business's average monthly costs up to $10 million. After the covered period, business can contact the loan provider to seek possible loan forgiveness. Loans are eligible for forgiveness if they meet certain requirements.

The amount of the loan that is forgiven is not included in gross income. The CAA 2021 clarified that expenses paid with forgiven loans may be deducted from income.

- The first and second round of PPP loans ended on August 8, 2020. At that time, about 5,212,100 loans totaling $525.0 billion had been approved by the Small Business Administration (SBA), as reported in the Paycheck Protection Program Report. Of this total, about 102,400 loans totaling $11.3 billion were approved in Minnesota.

EXPLANATION AND ANALYSIS OF THE BILL (cont.)

- The CAA 2021 appropriated an additional $284 billion for PPP loans. Based on the loans issued so far, Minnesota businesses are expected to receive an additional $6.1 billion in loans in tax year 2021. The SBA data for Minnesota loan recipients does not include out-of-state businesses with sales into Minnesota. The size of that impact is unknown but is assumed to be offset by out-of-state sales of businesses located in Minnesota.
- Amounts that cannot be deducted immediately may be carried forward as net operating losses (NOLs) to offset income in future years. Between 2.7% and 6.3% of NOLs are assumed to be claimed each year over the forecast period.
- Based on the distribution and magnitude of the loans, it is assumed 80% of the loans will be forgiven.
- C corporations account for 39.5% of PPP loans in Minnesota, according to information obtained from the Small Business Administration. Pass-through entities, estates, trusts, and individuals account for 51.9%. Nonprofit organizations account for 8.6%.Nonprofits are not included in the estimate because their operating income is already excluded from tax.
- The estimate was reduced by 68% to exclude businesses without taxable income in tax year 2020, based on taxable income in 2018, adjusted for expected losses in 2020.
- The SBA data for Minnesota loan recipients does not include out-of-state businesses with sales into Minnesota. The size of that impact is unknown but is assumed to be offset by out-of-state sales of businesses located in Minnesota.
- A marginal rate of 8.0% was assumed for individual and pass-through entities. A marginal rate of 9.8% was applied to corporations.
- Corporate tax impacts are allocated 30% / 70% to fiscal years. Income tax impacts were allocated to the following fiscal year.

American Rescue Plan Act

The bill adopts Section 9042 of the Act, which provides an exclusion for certain unemployment benefits. For tax year 2020 only, an individual taxpayer with adjusted gross income less than $150,000 may exclude from adjusted gross income an amount equal to the taxpayer's regular and supplemental unemployment compensation up to $10,200. For a joint return, the exclusion is limited to $10,200 in unemployment compensation received by each spouse.

- About 821,300 individuals received $9.68 billion in unemployment insurance payments in 2020, according to information provided by the Department of Employment and Economic Development.
- It was assumed that around 65% of claims would result in taxable income on individual returns, based on the average percentage of claims that were reported as taxable income.
- Subtractions in tax year 2020 are expected to total $3.612 billion with the $10,200 maximum and the $150,000 income limit, based on unemployment insurance reported on 2018 returns, adjusted to reflect payments in 2020.
- A marginal rate of 6.5% was assumed.
- Retroactive impacts were allocated to fiscal year 2022.
- Subtractions in tax year 2020 are expected to total $3.612 billion with the $10,200 maximum and the $150,000 income limit, based on unemployment insurance reported on 2018 returns, adjusted to reflect payments in 2020.
- A marginal rate of 6.5% was assumed.
- Retroactive impacts were allocated to fiscal year 2022.

<u>Individual Income and Corporate Franchise Taxes – Article 1</u>

Angel Credit (Article 1, Section 1)
Effective for tax year 2022 allocation only.

A refundable credit is allowed to investors for qualifying investments in a small business. The credit is equal to 25% of the qualifying investment. The maximum credit is $250,000 for a married joint return and $125,000 for all other filers. In 2019, the credits was extended for tax years 2019 and 2021 only, with a limit of $10 million each year.

The bill extends the credit for tax year 2022, with a maximum of $5 million.

- It is assumed that the maximum of $5 million in credits will be claimed in tax year 2022.
- Tax year impacts were allocated to the following fiscal year.

Film Production Credit (Article 1, Sections 2, 8, 13)
Effective for tax years 2021 through 2024.

The bill creates a film production credit against the individual income, corporate franchise tax or insurance gross premiums tax. The credit is nonrefundable but may be carried over for up to five years.
The credit is equal to 25 percent of eligible production costs paid in a tax year. An eligible project is a film that includes the promotion of Minnesota, for which the taxpayers expends at least $1,000,000 in the taxable year for eligible production costs, and employs Minnesota residents to the extent practicable. Films include feature films, television or Internet pilots, programs, series, documentaries, music videos, and television commercials.

To qualify for the credit, a taxpayer must submit an application to the Commissioner of Employment and Economic Development.

Total credits are limited to $4,950,000 in each tax year. The credits are to be issued on a first come, first served basis. If the entire amount is not allocated, any remaining amount is available for allocation in the four following tax years until the entire allocation has been made. The credit expires after tax year 2024.

The credit is assignable to another taxpayer, who may claim the credit. The credit must be assigned for at least 75 percent of the credit amount. The assignee must notify the Commissioner of Revenue within 30 days of the assignment. By March 15, 2023, the Commissioner of Employment and Economic Development, in consultation with the Commissioner of Revenue, must provide a report to the legislature that includes the amount of credits claimed in each year, the number of applications received and approved for the credit, the types of projects eligible, the total economic impact, and other information.

- Since January 2020, the MN Film and TV Board have received more than 40 inquiries about the status and availability of the production incentive rebate program. According to the Film and TV Board, about half of those companies shared their project budget. This data was used to estimate this bill.

EXPLANATION AND ANALYSIS OF THE BILL (cont.)

- Of the projects who shared their budget, over 80 percent had proposed budgets greater than or equal to $1,000,000. These projects would potentially qualify for this credit.
- The proposed budgets of the unfulfilled projects who shared their budget totaled over $137 million.
- It was assumed that the maximum credits would be claimed in each taxable year.
- Around 40 taxpayers would qualify for the credit.

Casualty Losses (Article 1, Section 6)
Effective beginning with tax year 2019.

Under federal law, an itemized deduction is allowed for unreimbursed casualty and theft losses, including losses caused by theft, vandalism, storms, or other accidents. The deduction is allowed to the extent that each loss exceeds $100 and the total of all losses exceeds 10% of adjusted gross income. Losses are only deductible if they are uncompensated by insurance or otherwise.

The Tax Cuts and Jobs Act suspended the deduction for tax years 2018 through 2025, with certain exceptions. In 2019, Minnesota created an itemized deduction for casualty and theft losses. The deduction is based on the definition of losses eligible for the federal deduction, disregarding the temporary suspension. The bill clarifies that only unreimbursed expenses qualify for the subtraction, and also clarifies references to the Internal Revenue Code to include all losses that were temporarily suspended under the TCJA.

- The revised deduction for casualty and theft losses will have no revenue impact. The language clarifies the definition of losses to match the prior federal deduction and is consistent with the way the subtraction is currently being administered.

Volunteer Driver Subtraction (Article 1, Section 7)
Effective beginning with tax year 2021.

Under Federal and state law, volunteer drivers may exclude from income any mileage reimbursement payments received from charitable organizations, up to 14 cents per mile. Mileage reimbursements above that rate must be reported as income.

The bill would allow a subtraction for mileage reimbursements paid by a charitable organization to a volunteer driver. The subtraction is limited to the reimbursement that is over 14 cents per mile but not over the standard mileage rate (56 cents in tax year 2021).

- The estimate is based on information from the Volunteer Driver Coalition and a survey from the Metropolitan Area Agency on Aging.
- The Volunteer Driver Coalition estimates there are about 2,000 volunteer drivers in Minnesota.
- A survey from the Metropolitan Area Agency on Aging was used to identify the number of volunteer drivers, the average reimbursement rate, and the average miles driven in 2018.
- Drivers who drove more than 5,000 miles were assumed to be paid employees ineligible for the subtraction.

EXPLANATION AND ANALYSIS OF THE BILL (cont.)

- Volunteers reimbursed at 14 cents per mile are ineligible for the subtraction. From the survey, it is estimated about 910 volunteer drivers would be eligible for the subtraction. Of those eligible, the average reimbursement was 51 cents per mile. The average amount eligible for the subtraction would be 37 cents per mile. The average miles driven was 941 miles.
- The estimate was increased by 50% to account for drivers not included in the survey.
- A marginal tax rate of 6.5% is assumed.
- The subtraction is assumed to grow at 0.6% a year based on projected population growth from the Minnesota State Demographic Center.
- Tax year impacts were allocated to the following fiscal year.
- About 1,400 taxpayers in tax year 2021. The average reduction in tax would be approximately $25.

WFC Age Expansion for 19 and 20 year olds (Article 1, Section 9)
Effective beginning with tax year 2021.

Taxpayers without children are eligible for the working family credit if they are at least 21 years old and are younger than 65 years old, under current law. The bill would lower the minimum age for taxpayers without children from 21 to 19.

- The House Income Tax Simulation (HITS 7.0) Model was used to estimate the tax year revenue impact. These simulations assume the same economic conditions used by Minnesota Management and Budget for the forecast published in February 2021. The model uses a stratified sample of 2018 individual income tax returns compiled by the Minnesota Department of Revenue.
- Tax year impacts are allocated to the following fiscal year.
- The number of returns eligible for the credit would increase by 26,200. The average reduction in tax would be about $165.

Historic Rehabilitation Credit (Article 1, Section 10)
Effective the day following enactment.

The historic rehabilitation credit is a refundable credit equal to 20% of qualified rehabilitation expenditures (QREs). In order to receive the state tax credit, the taxpayer must be allowed the federal tax credit. As with the federal credit, the Minnesota credit is spread over a period of five years.

The State Historic Preservation Office (SHPO) cannot allocate credits after June 30, 2021. Projects allocated credits prior to that date can receive credit certificates through fiscal year 2024. A project is issued a credit certificate when work is completed, and the project is placed in service.

No allocation of credits is permitted past June 30, 2021.

The bill extends the sunset provision by one year. The extension would allow allocation certificates to be issued up and until June 30, 2022.

- The State Historic Preservation Office (SHPO) and Minnesota Management and Budget (MMB) provided data on the amount of historic rehabilitation credits between fiscal years 2013 and 2020. The average amount of credits issued per year during this period is about $35 million.

EXPLANATION AND ANALYSIS OF THE BILL (cont.)

- This amount includes an additional 5% to reflect grants in lieu of credits.
- The amount of tax certificates associated with tax year 2021 is $17.5 million, and in addition the amount of tax certificates associated with tax year 2022 is estimated to be $17.5 million.
- For fiscal years beyond 2025, there is an additional $8.5 million revenue loss.
- The payment of the credits associated with each project is spread across five years.
- The first payment in tax year 2021 is allocated to fiscal year 2022. For all other payments, tax year impacts are allocated 30% / 70% to fiscal years.

Student Loan Credit (Article 1, Section 11)
Effective beginning tax year 2021

A nonrefundable income tax credit is allowed for individuals with qualified education loans related to an undergraduate or graduate degree program at a public or nonprofit institution. The credit is equal to the least of:
- Eligible education loan payments of principal and interest made during the tax year minus 10% of adjusted gross income over $10,000;
- The earned income of the taxpayer;
- The interest portion of eligible loan payments made during the tax year plus 10% of the original loan amount of all qualified education loans; or
- $500.

For married joint filers, each spouse is eligible for the credit. The credit is allocated to part-year residents based on the percentage of their income that is attributable to Minnesota. Full-year nonresidents are not eligible for the credit.

Under the bill, for married joint filers, the credit calculation would be based on each spouse's share of the couple's earned income multiplied by the couple's adjusted gross income.

For example, if a married joint return had adjusted gross income of $60,000 and each spouse earned an equal amount, then each spouse's share of adjusted gross income would be $30,000. The credit would be calculated as loan payments minus $2,000 (($30,000 - $10,000)*10%). Under current law, the credit is calculated as loan payments minus $5,000 (($60,000 - $10,000)*10%).

- The estimate is based on information from 2019 income tax returns.
- In tax year 2019, student loan credits totaled $23.4 million on 52,200 returns.
- Credits for married joint filers were increased by 80% to account for newly eligible filers.
- The credit is expected to grow at 2.0% a year, based on the average growth in the amount of student loan credits claimed for tax years 2017-2019.
- Tax year impacts were allocated to the following fiscal year.
- About 14,700 tax returns would be affected in tax year 2021, with an average reduction in tax of $315.

EXPLANATION AND ANALYSIS OF THE BILL (cont.)

Minnesota Housing Tax Credit (Article 1, Sections 12, 14, & 15)
Effective for tax years 2023 through 2028.

The bill allows taxpayers to claim a nonrefundable credit against the individual income tax, corporate franchise tax, or gross premiums tax for contributions to a designated housing development account. The credit is equal to 85% of contributions of at least $1000 but not more than $2 million. Any unused credit may be carried over for up to 10 years. If a taxpayer is able to claim a credit and a carryover credit in the same tax year, the credit must be claimed first. Total statewide credits are limited to $9.9 million per year.

To qualify for the credit, the taxpayer must contribute to the Minnesota Housing Tax Credit Contribution Account, a revolving account to be administered by the Housing Finance Agency (HFA). Within 30 days the HFA must provide a credit certificate to the taxpayer and send a copy to the Department of Revenue. If there are no remaining credits to match the contribution, the HFA must return the contribution to the taxpayer.

The account is to be used for grants and loans for low and moderate income housing developments. Grants and loans should approximately fund the metropolitan area and greater Minnesota equally. Eligible recipients must use the funds to serve households under the income limit for the Economic Development and Housing Challenge Program. A taxpayer contributing to the Account may indicate that a contribution is intended for a specific project, but not the taxpayer's own project.

The bill appropriates an unspecified amount to the Commissioner of the HFA to administer the program. The Commissioner must report to the legislature by January 15 of each year on the tax credits and financing provided in the previous year, including a breakdown by region and planned financing for the current year.

- It is assumed that the maximum of $9.9 million in credits will be allocated and claimed in each year.
- Tax year impacts are allocated to the following fiscal year.

Section 179 Carryovers (Article 1, Section 16)
Effective for Federal Section 179 carryovers beginning in tax year 2020.

Prior to tax year 2020, Minnesota law required a taxpayer to add back 80% of the difference between the amount deducted federally and the amount that was allowed under pre-2003 federal law (up to $25,000, reduced by one dollar for each dollar that total expenses exceed $200,000). The amount of the addback could be subtracted in equal parts over the next five years.

Minnesota conformed to the federal treatment of Section 179 property beginning with property placed in service in 2020, eliminating the need for the additions and subtractions. However, full conformity does not apply to carryovers from a previous year if the property was placed in service before tax year 2020.

For example, Section 179 expenses for property placed in service in 2019 may be carried over to tax year 2020 if the taxpayer is unable to claim the full deduction in 2019. In that case, the expenses would still be subject to the addition and subtractions on the Minnesota return, since the property was placed in service in 2019.

EXPLANATION AND ANALYSIS OF THE BILL (cont.)

Under the bill, no Section 179 addition is required for tax years beginning after December 31, 2019, even if the property was placed in service before January 1, 2020. The provision applies to carryovers from previous tax years and also to property placed in service prior to January 1, 2020 by a pass-through entity filing on a fiscal year with a partner or shareholder filing on a calendar year.

- Based on information from the Internal Revenue Service Statistics of Income, carryovers accounted for about 6.9% of total Section 179 expenses on individual income tax returns in 2018.
- On Minnesota returns, full-year residents claimed about $1.08 billion in Section 179 expensing in 2018. Carryovers are estimated at 6.9% of that amount, or $74.5 million.
- Assuming a growth rate of 3%, carryovers in 2020 are estimated at $79.0 million.
- A marginal rate of 7.75% is assumed.
- The estimate was increased by 5% to account for nonresidents.
- The corporate franchise tax impact is estimated at 38% of the individual income tax impact, based on the ratio of Section 179 expenses reported on individual and corporate returns.
- Retroactive impacts were allocated to fiscal year 2022. All other tax years were allocated 30% / 70% to fiscal years.

Partnership Audits (Article 2)

The bill responds to a 2015 federal law change in The Bipartisan Budget Act of 2015. It created a new federal partnership auditing regime that allows the IRS to review multiple years of a partnership activity and to adjust the tax in the year the audit is completed. The tax associated with the audit is paid at the partnership level, or with an election, it may be paid at the partner level.

Current law allows for the payment of tax only at the partner level. There is no mechanism for audit changes made at the partnership level on behalf of its partners.

The bill allows a partnership to elect to pay the state assessment at the partnership level on behalf of its partners. It includes rules for calculating the tax payable by the partnership. This arrangement mirrors the treatment under federal law.

The assessment is calculated at the partnership level based on the residency of the partners. However, the allocation of income of indirect partners could be reduced compared to current law. The ability to apportion income of nonresidents is no change from our current law, but the bill could reduce the amount of taxes attributable to resident indirect partners. The bill is based on the multistate tax commission (MTC) model act for implementing the federal law. The bill requires taxpayers to use the same audit elections on both the federal and state returns.

- The revenue loss estimate is based on estimates made by the Joint Committee on Taxation.
- On average the ability of partnerships to apportion the resident share of assessments reduces the taxes paid by resident taxpayers by 37%. The 37% reduction is based on the current law approach of assigning income 100% to Minnesota with a credit for taxes paid to other states. The credit for taxes paid to other states assumes a tax rate of 5.5%.
- It is assumed that 67% of the audit money will be from nonresident taxpayers and 33% will be from resident taxpayers. After weighting the effect from both resident and nonresident taxpayers, there is an overall 19% reduction of revenue.

EXPLANATION AND ANALYSIS OF THE BILL (cont.)

Pass-Through Entity Tax (Article 3)
Effective beginning tax year 2021

Flow-through entities such as S corporations and partnerships do not pay state or federal income taxes directly. Their income is passed to shareholders, who report the income on their individual income tax returns. There is no election to allow a partnership, S corporation, or limited liability company to file and pay their tax liability as an entity.

For individuals, federal deductions for state and local taxes paid are subject to the federal cap on state and local tax deductions. The cap is $10,000 ($5,000 for married separate filers). The limitation expires after tax year 2025.

For years where the cap applies to qualifying owners, the bill creates an option that allows a partnership, S corporation, or limited liability company to file and compute tax liability as opposed to passing all the income to its owners. A pass-through entity would elect to pay a pass-through entity (PTE) tax. It is assumed when the PTE tax is paid at the entity level that the federal government will allow the taxes to be deductible as part of the income flowing out of the pass-through entity.

The income subject to tax under the PTE tax would be an apportioned amount. Under current law, nonresidents have income apportioned to Minnesota. In contrast, under current law residents have 100% of their income assigned to Minnesota.

The pass-through entity tax is equal to the sum of the tax liability of each qualifying owner. Each qualifying owner's tax must be computed using the tax rates and brackets for married separate filers, estates, and trusts.

If the election is made by the majority owners of the qualifying entity (having more than 50% ownership interest), the election is binding on every owner of the entity. The election must be made by the date the return is due or the extended due date. A shareholder's basis in the entity is not affected by the election to pay the PTE tax.

The owners of the qualifying entity would claim a refundable credit on the individual income tax return equal to the amount of PTE tax.

Taxpayers choosing to pay the PTE tax would calculate their taxes in a three-step process which differs from the one under current law. First, each partner/shareholder would compute their tax on flow-through income as done under current law. Next, information from the individual income tax calculation would be used in the process of computing a PTE tax. Last, the PTE tax would be claimed as a tax credit on the individual income tax return. If the PTE tax is less than tax on the individual income tax return, the individual income taxpayer would pay the difference in tax.

- The number of qualifying entities that would select PTE tax is unknown.
- In tax year 2018, about 179,300 full-year resident returns reported income from an S corporation, partnership, or limited liability corporation.
- Of those, about 42,500 returns had state and local taxes over the deduction limit ($10,000 or $5,000 for married separate filers).

EXPLANATION AND ANALYSIS OF THE BILL (cont.)

Pass-Through Entity Tax (cont.)

- About 21,800 of those returns had at least some income in the highest income tax bracket. Those are considered most likely to elect to use the PTE tax option.
- It is unknown how many of those taxpayers have more than 50% ownership in the qualifying entities.
- It is assumed that an entity would only use the PTE tax option if the majority shareholders benefit from the election with a reduced combined federal and state tax liability.
- Because the amount of income reported on the individual income tax return is the same as under current law, the same amount of tax will be collected under the bill as under current law. The tax paid by the PTE will be offset by the refundable credit claimed by the shareholder, resulting in no change in revenue.

Sales and Use Tax – Article 4

Certain Vendors – June Accelerated Payment (Article 4, Section 2)
Effective for sales and purchases made after June 30, 2021.

Taxpayers with a general sales and use tax liability of $250,000 or more during a fiscal year are required to pay a portion of the estimated June liability two business days before June 30th for each year. The payment amount is 87.5 percent of the estimated June liability for calendar year 2021 and 84.5 percent for subsequent years. Any additional tax not remitted in June is due by the normal due date the following month.

The bill excludes vendors of construction materials from the requirement to make an accelerated June payment. A vendor of construction materials is defined as a retailer that sells any of the following construction materials, if 50 percent or more of the retailer's sales revenue is from the sale of those materials:

- lumber, veneer, plywood, wood siding, wood roofing;
- millwork, including wood trim, wood doors, wood windows, wood flooring; or
- concrete, cement and masonry.

- The excluded June payments create a shift in revenue collections. The primary impact occurs in the initial fiscal year as the accelerated payments normally received in the last month of that year (June) are shifted to the following fiscal year. The impacts for subsequent years reflect the annual growth in payments shifted by the bill.
- The estimates are based on June accelerated payments received in calendar year 2020 from businesses with NAICS classification codes associated with a manufacturer or wholesaler of lumber construction materials selling the listed construction materials.
- An estimated 100 businesses would be excluded from making the accelerated June payment.

EXPLANATION AND ANALYSIS OF THE BILL (cont.)

Collegiate Preferred Seating (Article 4, Section 4)

Effective for sales and purchases made after June 30, 2021.

Admissions to places of amusement, recreational areas, and athletic events are taxable. The bill exempts the right to purchase the privilege of admission to a college or university athletic event in a preferred viewing location for a season of a particular athletic event if three criteria are met: 1) the amount paid for the right to purchase a ticket is used entirely to support student scholarships, wellness, and academic costs, 2) the amount paid for the right to purchase a ticket is separately stated from the admission price, and 3) the admission price is equal to or greater than the highest priced general admission ticket for the closest seat not in the preferred viewing location.

- It is assumed that the exemption would apply to the scholarship gift or donation included as part of the season ticket price. It is assumed that all scholarship donations are separately stated from the ticket price.
- It is assumed that parking is not included in the exemption.
- The University of Minnesota reported the portion of season ticket prices collected as scholarship seating donations. Scholarship seating donations totaled $12.1 million for the 2019-2020 school year.
- The donation amounts for the University of Minnesota were increased 10% to include other colleges and universities that would qualify for the exemption.
- The estimates are based on ten sports programs at five colleges, including football, men's and women's basketball, men's hockey, and volleyball at the University of Minnesota. No adjustment is included for possible additional sports programs that would qualify.
- It is assumed that revenues from seating donations will increase 1% per year.
- The first full year impact is assumed to be fiscal year 2022.

Fundraising Sales for School Organizations (Article 4, Section 5)

Effective for sales and purchases made after the date of final enactment.

Fundraising sales made by an educational or social nonprofit organization for people age 18 and under were exempt from the sales tax provided the proceeds from the activities were not deposited with the school district treasurer. After a 2019 law change to conform with federal accounting requirements, fundraising sales made by schools and school-run groups for extracurricular activities are required to be deposited with the school district treasurer and the sales tax exemption is no longer available for certain fundraising activities.

The bill reverses the unintended effect of the accounting change on the sales tax exemption for fundraising sales. The sales tax exemption would again apply to educational or social nonprofit organizations for people age 18 and under, regardless of the accounting with the school district treasurer. The proposed exemption would require that: 1) the fundraising sales are for elementary and secondary school student activities, 2) separate accounting records are maintained by the school group, and 3) the school district reserves and spends revenues raised by a particular extracurricular activity only for that activity.

- Other sales tax exemptions apply to certain fundraising sales including candy, food, clothing, and coupon books, which limited the impact of the legislative change.
- The 2018 Minnesota Tax Expenditure Budget reported a tax expenditure estimate for fundraising sales by nonprofits of $13 million for fiscal year 2022. Based on information from Minnesota Department of Education, it is estimated that 5% of the tax expenditure would be exempt under the bill.

EXPLANATION AND ANALYSIS OF THE BILL (Cont.)

Fire and Police Station – Minnetonka (Article 4, Section 6)
Effective the day following final enactment.

Construction materials, supplies, and equipment used in the development of a new fire and police station in the city of Minnetonka are exempt when purchased after May 23, 2019, and before January 1, 2021. The exemption also applies to access roads, lighting, sidewalks, and utility components necessary for the fire and police station. Total refund claims are limited to $850,000.

The bill extends the exemption until January 1, 2022.

- Information for the estimates was provided by a representative of the city of Minnetonka.
- The total cost of the projects is estimated to be $29.9 million.
- Construction costs for materials, supplies, and equipment are estimated to be $9.9 million.
- It is estimated that an additional $200,000 will be refunded in fiscal year 2022 as a result of the extension from January 1, 2021 to January 1, 2022.

Construction – Public Safety Facilities (Article 4, Sections 7-10)
Effective for sales and purchases made after June 30, 2021.

Generally, construction materials, supplies, and equipment are subject to the sales and use tax. Local government purchases are exempt from the sales and use tax including purchases of construction materials by local governments for their own use. The local government exemption does not apply to purchases of materials by a construction contractor unless the contractor is authorized to act as a purchasing agent for the local government.

The bill provides an exemption for materials and supplies used or consumed in and equipment incorporated into the construction, remodeling, expansion, or improvement of a fire station or police station owned by a local government. The exemption would include related facilities, which the bill defines as access roads, lighting, sidewalks, and utility components on or adjacent to the fire or police station. The exemption would be administered as a refund.

- The estimates are based on the U.S. Census publication *Value of Construction Put in Place.* The applicable Census reports are for state and local government construction. National amounts for 2018 and 2019 were averaged for a state fiscal year 2019 estimating base.
- The national amounts were apportioned to Minnesota at 1.8%, the state share of GDP according to the Bureau of Economic Analysis.
- The amounts were reduced for the estimated amount of construction materials that a contractor may currently acquire exempt under Rule 8130.1200, Subpart 3.
- It was estimated that 40% of the value of qualifying construction was attributable to taxable building and construction materials.
- Growth rates for governmental entities published by IHS Global Insight, Inc. (*U.S Economic Outlook*) were used to forecast local government spending.
- The timing and processing of refund claims are expected to affect the estimates.
- The fiscal year 2022 estimates are reduced for an expected partial year refund impact.

EXPLANATION AND ANALYSIS OF THE BILL (Cont.)

Melrose Fire Remediation (Article 4, Section 11)
Effective the day following final enactment.

A fire occurred in the city of Melrose on September 8, 2016. A sales and use tax exemption was enacted in 2017 for building materials, supplies, and equipment used in the construction or replacement of property affected by the fire that were purchased after September 30, 2016, and before January 1, 2019. In 2019, the effective date of the sales and use tax exemption was extended to January 1, 2023.

The bill would extend the date for the sales and use tax exemption by six months to July 1, 2023.

- A representative from the city of Melrose provided information for the estimate.
- It is assumed that the exemption will apply to one construction project.
- The construction costs for materials, supplies, and equipment are estimated to be $2.75 million.
- It is estimated that 30% of the project purchases will be made after January 1, 2023, and before July 1, 2023.

Fire Remediation – City of Alexandria (Article 4, Section 12)
Effective the day following final enactment and applies retroactively to sales and purchases made after February 24, 2020.

The bill provides an exemption from the sales and use tax for the following items used to repair, replace, clean, or otherwise remediate damage to real and personal property damaged or destroyed in the Alexandria fire on February 25, 2020, for:

1) building materials, supplies, and equipment incorporated into the construction, replacement, or repair of real property, and
2) durable equipment used in a restaurant for food storage, preparation, and serving.

The exemption applies to sales and purchases made after February 24, 2020, and before February 28, 2023.

The bill provides an exemption from the sales and use tax for cleaning and disinfecting services related to mitigating smoke damage in surrounding buildings impacted by the February fire for sales and purchases made after February 24, 2020, and before January 1, 2021.

Sales tax paid on sales and purchases made after February 24, 2020, and before July 1, 2021, will be refunded. For periods after July 1, 2021, the exemption applies at the time of purchase.

- The estimates are based on information from a representative of the city of Alexandria.
- The total building and construction costs are estimated at $7 million. Materials and supplies are assumed to be fifty percent of the total costs.
- The durable equipment cost is estimated to be $176,000.
- It is assumed that building materials and equipment purchases are evenly divided between fiscal years 2022 and 2023.
- The total cleaning and disinfecting cost for the seventeen smoke damaged buildings is estimated to be $765,000.
- It is assumed that the refund claims for building cleaning and disinfecting services will be filed and paid in fiscal year 2022.

Fire Station – City of Buffalo (Article 4, Section 13)
Effective retroactively from April 1, 2020, and applies to sales and purchases made after March 31, 2020, and before July 1, 2021.

The bill would exempt materials, supplies, and equipment used in the construction of a new fire station in the city of Buffalo. The exemption would apply to purchases of materials, supplies, and equipment after March 31, 2020, and before July 1, 2021. The sales tax would be imposed and then refunded. Refunds must not be issued until after June 30, 2021.

- Information for the estimates was provided by a representative of the city of Buffalo.
- The new fire station project is estimated to cost approximately $7.7 million.
- Total construction costs for materials, supplies, and equipment are estimated to be $3.4 million.
- The project began in the spring of 2020 and is expected to be completed in the fall of 2021. The distribution of expected refund claims is assumed based on the project timeline.

Fire Station – Maplewood (Article 4, Section 14)
Effective retroactively from August 1, 2020, and applies to sales and purchases made after September 30, 2020, and before July 1, 2021.

The bill would exempt materials, supplies, and equipment used in the construction of a new fire station and an emergency management operations center in the city of Maplewood from the sales and use tax. Materials, supplies, and equipment would also be exempt for on-site infrastructure improvements, including a parking lot, road access, lighting, sidewalks, and utility components. The exemption would be administered as a refund and apply to purchases made after September 30, 2020, and before July 1, 2021. Refunds must not be issued until after June 30, 2021.

- Information for the estimates was provided by a representative of the city of Maplewood.
- The new fire station project is estimated to cost approximately $13.1 million.
- Total construction costs for materials, supplies, and equipment are estimated to be $6.55 million.
- It is assumed that the project will be completed by the end of calendar year 2021.
- It is assumed that all refunds will be filed and paid in fiscal year 2022.

Fire Stations – Plymouth (Article 4, Section 15)
Effective retroactively from January 2, 2021, and applies to sales and purchases made after January 1, 2021, and before July 1, 2021.

The bill would exempt materials, supplies, and equipment used in the demolition and replacement of Fire Station No. 2 and renovation and expansion of Fire Station No. 3, both in the city of Plymouth. The exemption would apply to purchases made after January 1, 2021, and before July 1, 2021. The sales tax would be imposed and refunded. Refunds must not be issued until after June 30, 2021.

- Information for the estimates was provided by a representative of the city of Plymouth.
- The fire station projects are estimated to cost approximately $22 million.
- Total construction costs for materials, supplies, and equipment are estimated to be $9 million.
- The Fire Station No. 2 project is expected to start in April 2021 and conclude in August 2022.
- The Fire Station No. 3 project is expected to start in April 2021 and conclude in July 2022.
- It is assumed that claims for refund will be filed and paid in fiscal years 2022 and 2023.

Special Taxes – Article 6

Weight-to-Volume Conversion (Article 11, Sections 18 and 19)
Effective after June 30, 2021.

The solid waste management tax is imposed on charges for the collection and disposal of solid waste. For mixed municipal solid waste, the tax is 9.75% for service provided to residential customers and 17% for commercial customers. The tax is 60¢ per non-compacted cubic yard for non-mixed municipal solid waste (construction debris, industrial waste, and infectious and pathological waste). For self-haulers, the statute provides a weight-to-volume conversion for construction debris of one ton equal to 3.33 cubic yards, or a tax rate of $2 per ton.

The bill provides for a tax on construction debris for self-haulers of 60¢ per cubic yard. The bill would have the Department consult with the Pollution Control Agency to determine a weight-to-volume conversion amount.

- The estimates depend on when and whether the tax rate is adjusted.

Minnesota Department of Revenue
Tax Research Division
www.revenue.state.mn.us/research_stats/Pages/Revenue-Analyses.aspx

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Federal Update: Special Session Laws 2021, Chapter 14
Further Consolidated Appropriations Act, 2020
($000s)

	FY 2022	FY 2023	FY 2024	FY 2025
Individual Provisions				
Exclusion of discharge of indebtedness on qualified principal residence (TY18-20)	($6,700)	$0	$0	$0
Benefits for volunteer firefighters and emergency medical responders (TY20)	($300)	$0	$0	$0
Subtotal: Individual Provisions	**($7,000)**	**$0**	**$0**	**$0**
Business and Investment Provisions				
Accelerated depreciation for business property on Indian reservations (TY18-20)				
Individual Income Tax	($260)	($10)	($10)	($10)
Corporate Franchise Tax	($200)	($10)	($10)	($10)
Special expensing rules for certain film, television, and live theatrical productions (TY18-20)				
Individual Income Tax	($2,200)	$500	$400	$300
Corporate Franchise Tax	($1,800)	$400	$300	$300
Special depreciation allowances for 2nd generation biofuel plant property (TY18-20)				
Corporate Franchise Tax	(Negl.)	(Negl.)	(Negl.)	(Negl.)
Energy-efficient commercial building deduction (TY 18-20)				
Individual Income Tax	($690)	$10	$10	$10
Corporate Franchise Tax	($1,090)	$60	$40	$30
Special rule for the production period for beer, wine, and distilled spirits (TY20 only)				
Individual Income Tax	($50)	$10	$10	$0
Corporate Franchise Tax	($80)	$20	$10	$0
Special rule for sales or dispositions of transmission lines for qualified electric utlities (TY18-20)				
Corporate Franchise Tax	($1,250)	$250	$250	$250
Business and Investment Provisions				
Individual Income Tax	**($3,200)**	**$510**	**$410**	**$300**
Corporate Franchise Tax	**($4,420)**	**$720**	**$590**	**$570**
Subtotal	**($7,620)**	**$1,230**	**$1,000**	**$870**

(Continued on next page)

Federal Update: Special Session Laws 2021, Chapter 14
Further Consolidated Appropriations Act, 2020 (Cont.)
($000s)

	FY 2022	FY 2023	FY 2024	FY 2025
Disaster Relief Provisions				
Special disaster-related rules for use of retirement funds (1/1/18-2/18/20)	($80)	$90	$0	$0
Special rules for qualified disaster-related personal casualty losses (1/1/18-2/18/20)	($600)	$0	$0	$0
Temporary increase in limitation on qualified contributions (1/1/18-2/18/20)	($800)	$300	$200	$0
Disaster Relief Provisions Subtotal	**($1,480)**	**$390**	**$200**	**$0**
FCAA 2020: All Provisions				
Individual Income Tax	**($11,680)**	**$900**	**$610**	**$300**
Corporate Franchise Tax	**($4,420)**	**$720**	**$590**	**$570**
General Fund Total	**($16,100)**	**$1,620**	**$1,200**	**$870**

Federal Update: Special Session Laws 2021, Chapter 14
Coronavirus Aid, Relief, and Economic Security Act
($000s)

	FY 2022	FY 2023	FY 2024	FY 2025
Special rules for use of retirement funds (TY20 only)				
Individual Income Tax	($1,600)	$1,700	$0	$0
CARES Act: All Provisions				
Individual Income Tax	**($1,600)**	**$1,700**	**$0**	**$0**
Corporate Franchise Tax	**$0**	**$0**	**$0**	**$0**
General Fund Total	**($1,600)**	**$1,700**	**$0**	**$0**

Federal Update: Special Session Laws 2021, Chapter 14
Consolidated Appropriations Act, 2021
($000s)

	FY 2022	FY 2023	FY 2024	FY 2025
Individual Provisions				
Exclusion for certain financial aid grants made under the CARES Act (TY20)	($600)	$0	$0	$0
Expansion of educator expense deduction beginning (`2/27/20)	($25)	($15)	($15)	($15)
Subtotal: Individual Provisions	**($625)**	**($15)**	**($15)**	**($15)**
Business and Investment Provisions				
Exclusion of EIDL loan advances and repayments (TY20 only)				
Individual Income Tax	($3,500)	($400)	($200)	($200)
Corporate Franchise Tax	($3,400)	($300)	($200)	($200)
SBA loan assistance (TY20-21)				
Individual Income Tax	($1,500)	($100)	($100)	($100)
Corporate Franchise Tax	($1,500)	($100)	($100)	($100)
Business and Investment Provisions				
Individual Income Tax	**($5,000)**	**($500)**	**($300)**	**($300)**
Corporate Franchise Tax	**($4,900)**	**($400)**	**($300)**	**($300)**
Subtotal	**($9,900)**	**($900)**	**($600)**	**($600)**
CAA 2021: All Provisions				
Individual Income Tax	**($5,625)**	**($515)**	**($315)**	**($315)**
Corporate Franchise Tax	**($4,900)**	**($400)**	**($300)**	**($300)**
General Fund Total	**($10,525)**	**($915)**	**($615)**	**($615)**