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2023 Minnesota Legislative Session Report

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At a Glance

- The state's next biennial budget includes a 38% increase in spending over the current budget, along with funding for a new paid family leave program.
- Minnesota joined 22 other states in legalizing the possession and sale of marijuana and cannabis-related products
- In the final days of session, House and Senate leaders were able to agree to and pass a pair of capital investment bills for the first time since 2020.

In November, voters gave the Democratic Farmer Labor Party (DFL) total control of the legislature and the governor's office for the first time in nearly a decade, which included flipping the Minnesota Senate by the narrowest of margins — 34-33. The result was the most consequential session in the last five decades. From the state's budget to policy initiatives, the DFL trifecta expanded the size of state government and addressed a backlog of DFL priorities that had been blocked by divided government for nearly a decade.

The primary task of the session was setting the state's biennial budget. With the help of a \$17.5 billion surplus — which was \$19 billion until inflation was included in budget and forecast estimates mid-session — the legislature adopted a budget totaling approximately \$71.5 billion for the FY2024-25 biennium. The budget represents a 38% increase in spending over the current state budget of approximately \$51.6 billion. To close the gap, the legislature enacted \$1 billion in new general fund tax hikes, approximately \$2.5 billion in new taxes and fees to fund transportation and metro wide transit initiatives, and \$1 billion in shared payroll taxes between employers and

employees for a new paid family leave program. After three years of inaction, the legislature was also able to pass a pair of capital investment bills committing \$2.6 billion to the state's infrastructure.

On the policy front, the legislature legalized marijuana, enacted new gun control measures, banned PFAS in most products, enacted several new employer mandates, codified abortion rights following the U.S. Supreme Court's *Dobbs* decision, significantly restricted no-knock warrants, and enacted a comprehensive fair repair law requiring manufacturers to make spare parts, repair information and tools available to consumers and repair shops.

Taxes

The DFL majority's focus was helping low-income earners, families and seniors hit hardest during the pandemic, which it did, in part, by authorizing \$3 billion in refunds, aids and credits in the omnibus tax bill. A centerpiece of the bill was Governor Walz' proposal to provide a \$1,750 per child tax credit to households making \$35,000 annually, gradually phasing out on incomes up to \$96,250, depending on filing status and number of children. It is estimated that this credit will cut child poverty in Minnesota by one-third. Other tax relief provisions include:

- Full exemption of state taxation on social security benefits for those making up to \$100,000.
- A one-time rebate check of \$520 for married filers making \$150,000 a year or less and \$260 for single filers making \$75,000 a year or less.
- Converts renter's credit to a renter's income tax credit.
- A one-time 20% boost in property tax refunds for homeowners.

To help pay for this relief and other DFL priorities the bill also includes \$1 billion in additional revenue, raised primarily from corporations and high net worth individuals. The state will begin collecting taxes on global intangible low-tax income (GILTI) on businesses with global earnings. The bill also caps itemized deductions for those making incomes over \$1 million and reduces the deduction for dividends. Other revenue raisers considered by conferees that didn't become law include establishing a new fifth-tier income tax and worldwide combined reporting.

The tax bill includes increases in local government aid and county program aid, as well as \$300 million in one-time public safety aid, and reinstates the state's historic tax credit.

Transportation and Transit

The legislature passed a transportation and transit package providing significant new investment in the state's roads, bridges, and public transit infrastructure. These investments include authorizing \$600 million in trunk highway bonds for state road construction and the Corridors of Commerce program, funding for the Northern Lights Express train from Minneapolis to Duluth, and new revenue to the Met Council to build out its arterial bus network. To fund these investments, several new taxes and fees were authorized including an increased gas tax indexed to inflation, higher registration and driver's license fees, an increased motor vehicle sales tax, and a 50-cent delivery fee on deliveries exceeding \$100. Restaurant and food deliveries, baby products, drugs, and medical devices are exempt from the fee. Retailers with less than \$1 million in annual sales would also be exempt.

This legislation also authorizes a .75% sales tax increase in the seven-county metro area dedicated primarily to transit. This increase is expected to generate about \$600 million a year in new revenue for transit improvements and operations

In addition to its focus on strengthening the state's public transit infrastructure, this legislation contains several other sustainability measures. It establishes a \$1.50 per gallon tax credit for sustainable aviation fuel that is either produced, blended or sold in Minnesota for use by aircraft departing from a Minnesota airport; provides sales tax exemptions to construct or improve facilities located in Minnesota that produce or blend sustainable aviation fuel; creates a working group to study a clean transportation fuel standard that reduces aggregate carbon intensity of transportation fuels by at least 25% by 2030, 75% by 2040 and 100% by 2050; provides a tax credit to qualified buyers of electric bicycles of up to \$1,500; and requires assessing and mitigating greenhouse gas emissions for all grade separated interchange projects and capacity improvement projects on the state's trunk highway system, applying to projects costing \$15 million or more in the metro area and \$5 million or more in Greater Minnesota.

Energy and Climate

Early in session, the legislature passed legislation requiring Minnesota's electricity, with some exceptions, to be carbon-free by 2040. Starting in 2030, utilities are required to get 80% of their electricity from carbon-free sources, with those percentages increasing to 90% in 2035 and 100% in 2040. This legislation also includes a separate standard requiring utilities to get 55% of their electricity from renewable sources starting in 2035. This legislation includes exceptions and off ramps for utilities in meeting these goals if doing so would have significant impacts on utility rates or create reliability issues.

The omnibus environment and energy bill expands on this commitment to renewable energy by appropriating \$115 million to a state competitiveness fund designed to help secure federal grants for energy projects that reduce

greenhouse gas emissions. The bill also appropriates an additional \$167 million from the general fund and another \$110.8 million from the state's renewable development account for items related to energy and climate change, including for energy storage systems and solar projects for schools and other local governments.

Paid Family and Medical Leave

Paid family and medical leave (PFML), a top priority for the DFL majority, passed in the final days of session. This state-administered, mandatory program is modeled after the state's unemployment insurance program and will be administered by the Minnesota Department of Employment and Economic Development (DEED). Minnesota becomes the twelfth state to implement a mandatory paid family and medical leave program.

Starting January 1, 2026, nearly all private and public sector employees will be eligible for a partial wage replacement to support up to 12 weeks of paid medical leave, including for pregnancy and childbirth and 12 weeks paid for other kinds of family leave, including parental leave, caregiving leave, safety leave and deployment related leave. Employees who need leave from both categories can take up to 20 weeks total in a benefit year. Family members include an employee's spouse or domestic partner, child, parent, sibling, grandchild or grandparent, along with individuals who have a relationship with the applicant that creates an expectation and reliance that the applicant care for the individual, whether or not the applicant and the individual reside together. Employees hired at least 90 days prior to their leave have the right to get their job back or an equivalent job.

To ensure the PFML program is up and running and benefits are available starting January 1st, 2026, the legislation includes a \$648 million appropriation to DEED. Thereafter, the program will be funded with payroll taxes split evenly between the employer and employee. Initially, the rate will be 0.7% with rates later being adjusted annually based on program usage. Employers with fewer than 30 employees will pay a reduced rate. Employers can opt out of paying into the state program if their private benefit plan meets or exceeds the benefits provided under the state's PFML program.

Major Changes for Minnesota Employers

In addition to PFML, the legislature passed several new laws with significant implications for Minnesota employers. These new laws include:

- **Earned Safe and Sick Time:** Beginning January 1, 2024, employees are entitled to accrue one hour of sick and safe leave for every 30 hours worked, up to a total of 48 hours per year. Employees will be able to carry over accrued hours, subject to an 80-hour total cap on accrued hours.

- **Ban on Noncompete Agreements:** Effective July 1, 2023, the new noncompete law prohibits any post-employment noncompete agreement with an employee or independent contractor regardless of a person's income, with only two very limited carveouts for certain noncompetes agreed upon in connection with the sale of a business or in anticipation of the dissolution of a business.
- **Construction Contractor Liability:** Contractors entering into a construction contract are required to assume liability for any unpaid wages, fringe benefits, penalties and liquidated damages owed to a claimant by a subcontractor at any tier acting under, by, or for the contractor or its subcontractors for the claimant's labor.
- **Nursing Home Workforce Standard Board:** Creates a state board with the authority to establish employment standards necessary to protect the health and welfare of nursing home workers, including wages and working hours. Initial standards for wages and working hours must be established by August 1, 2024.

Additional information and a summary of all new laws impacting Minnesota employers can be found in [our previous recap](#).

Recreational Cannabis

Minnesota joined 22 other states in legalizing the possession and sale of marijuana and cannabis-related products. Starting August 1, 2023, individuals 21 years or older may possess, use and grow cannabis. In public places, individuals may possess up to two ounces of cannabis flower or edibles with a combined total of 800 milligrams or less of tetrahydrocannabinol. They may possess up to two pounds in their private residence. The newly created Office of Cannabis Management (OCM) will oversee the licensing and regulation of the production and sale of cannabis flowers, edibles and other cannabis-related products with retail sales starting August 1, 2025. A gross receipts tax, like the one currently imposed on liquor products, is imposed on the retail sale of recreational cannabis products and these products are subject to the state sales tax and any local sales taxes. Cities and counties will receive 20% of the gross receipts from cannabis to use for enforcement, compliance checks and other public health-related items.

Additionally, there is a significant expungement component for those with past cannabis-related criminal records. To mitigate negative impacts of past cannabis prohibition policies, particularly on marginalized communities, the bill incorporates a social equity program within OCM allowing those affected by prohibition to be primary beneficiaries of this new industry. OCM has created a [website](#) providing more information about the implementation of this legislation.

Capital Investment

In the final days of session, House and Senate leaders were able to agree to and pass a pair of capital investment bills for the first time since 2020. After five months of negotiating with House and Senate Republicans — minority votes are needed as it takes a three-fifths majority to pass bills committing the state to take on debt — DFL legislative leaders were prepared to move forward with a “cash-only” bill. The cash-only option included a narrower list of projects primarily in the districts of DFLers and House Republicans who had voted for an earlier capital investment bill in March. The cash-only option only required a straight majority vote, and no minority votes were needed to move forward. However, as session neared adjournment, Republican leaders agreed to a package that included providing votes for a capital investment bill and an orderly conclusion to the legislative session in exchange for long-term care funding and the larger list of capital investment projects.

Together, the capital investment bills invest \$2.6 billion in general obligation bonds and cash appropriations from the state’s general fund. The general obligation bill authorized \$1.9 billion, largely focused on state agency and higher education projects that passed the House in March with Republican support. The cash capital investment bill appropriates \$850 million in general funding spending on over 190 individual projects throughout the state.

Other New Laws

In addition to setting the state’s biennial budget, the legislature passed a number of other initiatives, including:

- **Gun Control Measures:** Two gun control measures were passed this session. The first creates a “red flag” system where family members or law enforcement personnel can petition a court for an extreme risk protection order to suspend someone’s access to a firearm if they are seen as a danger to themselves or others. The second expands background checks on private gun transfers and allows law enforcement more time to approve background checks for an individual seeking a permit to purchase a firearm.
- **Restrictions on Political Spending by Foreign Influenced Corporations:** Prohibits foreign-influenced corporations which includes, among other things, corporations where a single foreign investor owns, controls or otherwise has direct or indirect beneficial ownership of one percent or more of outstanding voting shares or where two or more foreign investors own, control or otherwise have direct or indirect beneficial control of five percent or more of outstanding voting shares from:
 - Making any expenditure to promote or defeat the candidacy of an individual for nomination, election or appointment to a public office.
 - Make contributions or expenditures to promote or defeat a ballot question or to qualify a question for placement on the ballot.

- Make a contribution to a candidate for nomination, election, or appointment to a public office or to a candidate's principal campaign committee.
- Make a contribution to a political committee, political fund or political party unit.
- **PFAS Product Ban:** Minnesota has banned nearly all uses of perfluoralkyl and polyfluoroalkyl substances (PFAS) in products. Starting in 2025, Minnesota will prohibit the sale of many products with intentionally added PFAS, including carpeting, cookware, children's products, cosmetics, dental floss and ski wax. By 2032, no product with intentionally added PFAS can be sold in Minnesota unless a determination is made that it's essential for the health, safety or the functioning of society, and there are no reasonable alternatives.
- **US Bank Stadium Bonds Retired/ Electronic Pulltabs Changes:** The state will retire approximately \$377 million in outstanding stadium bonds for construction of US Bank Stadium this summer, primarily using the surplus in the state's stadium reserve account and a small general fund appropriation. The stadium reserve account surplus was generated by larger than anticipated electronic pulltab revenue. Moving forward, the types of electronic pull-tab games that can be used by charities has been redefined and the lawful gambling tax rates they pay reduced.

The legislature will reconvene on Monday, February 12, 2024.

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