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ATTORNEYS & ADVISORS

The Minnesota State Legislature's 5th Special Session of 2020 began Monday, October 12th at 12:00pm. The Governor called the legislature back into session in order to extend his emergency powers. In the Senate, members passed a resolution terminating the peacetime emergency and nullifying the Governor's emergency powers. The House failed to pass that same resolution, so the Governor's powers remain in effect for another 30 days. Unlike past special sessions that lasted one day, this 5th session lasted from Monday until Thursday. The House needed a 2/3 majority to suspend the rules to act on a bonding bill, but did not have enough GOP votes to do so. For that reason, they had to follow protocols and come back into session each day for a proper first, second, and third reading of the bill. The House passed the bonding bill with a final vote of 100-34 on the third day and adjourned *sine die*, causing the Senate to be put under pressure to concur because the bill could no longer be modified. The Senate passed the bill with an overwhelming majority of 64-3. The bonding bill is set to become one of the largest in state history, and also contains tax and budget provisions.

2020 Bonding Bill

The Legislature failed to pass a bonding bill during the 2020 regular session and four subsequent special sessions. Passage in the fifth special session is largely attributable to the persistence of stakeholders who kept pressure on lawmakers to get the bill passed. The \$1.36B bonding bill [H. F. No. 1](#) passed with an overwhelming majority in both bodies. With the pressure of an election and economic recession due to a worldwide pandemic, legislators came together in strong numbers, adding key tax provisions and portions of a supplemental bill. The supplemental budget provisions will protect two prisons from closing in Togo and Willow River, and provide pay raises for home health care attendants. The tax breaks for farmers will expedite income tax deductions, essentially distilling down a Section 179 conformity bill. Although the Governor is expected to sign this Omnibus bill, the Governor does have the authority to line-item veto.

- \$1.36 billion in general obligation bonds to finance construction projects
- \$700 million towards transportation projects; \$325 million is designated for local road and bridges, \$300 million in trunk highway bonds — to be repaid from gas taxes, license tab fees and motor vehicle sales taxes — for rail crossing safety improvements, state highway construction and related projects; \$55 million to Metropolitan Council for expansion of bus rapid transit lines.
- \$269 million for sewer and water projects, split among nearly 40 cities and water systems.
- \$160 million to Department of Employment and Economic Development for distribution to more than 70 cities and counties for projects such as public building infrastructure, business parks, civic and arts centers and parks.
- \$104 million to the Department of Natural Resources for flood-control projects, dams, parks, trails and other lands and buildings



- \$100 million in housing infrastructure bonds to finance construction of affordable housing, and
- \$76 million to the Minnesota State college system
- \$75 million to the University of Minnesota with most of that money targeted at preserving or replacing aging buildings

The bonding bill summary is [here](#).

[View the details of the 2020 Capital Budget \(pdf\)](#)

2020 Tax Bill

The Tax provisions incorporated into the omnibus bill include full section 179 expensing effective for tax year 2020, and retroactive conformity is provided for like-kind exchanges back to tax year 2018. A small handful of minor “no-cost” provisions are also included – perhaps the most significant being the creation of a property tax classification for short term rental property. Notably, the negotiated partnership audit language is no longer in the bill. The tax portion has a general fund impact of \$90 million for the current biennium and \$117.9 million for the upcoming biennium.

2020 Supplemental Budget

Supplemental budget provisions were included in the omnibus bill as an amendment to HF1. The amendment provides pay raises for home health care attendants and the State Patrol, plus \$7.5 million to keep open the state’s two smallest prisons, Togo and Willow River in northeastern Minnesota (which had been scheduled to close to erase a shortfall in the Corrections Department budget). The supplemental budget is now \$31.4 million of mostly one-time spending in the health and human services and public safety areas. The total general fund impact is \$173.8 million in the current biennium and \$215.9 million in the next biennium. The current biennium impact is alleviated by three spending offsets:

- State bond refinancing this August has yielded an estimated \$41.67 million in current biennium debt service savings.
- The federal government has again extended (now through December) the temporary 6.2 percentage point increase in the federal match for the state’s Medical Assistance program saving the state \$25 million.
- A \$100 million transfer to the General Fund from the State’s Premium Security Plan account which provides reinsurance payments to health insurers to cover the cost of high claims in the individual market.



Additional savings may materialize if local governments are unable to commit all of their federal CARES appropriations for COVID-related spending in the next 4-6 weeks, and these funds would then revert back to the state.

Other bills that passed both bodies this special session and are headed to the Governor for signature:

- **[S.F. No. 5](#) – Eichorn – Passed**
Authorizes the Polk County Law Library to transfer money in fiscal reserve to Polk County for technological improvements to the county courthouse and permits an addition of unorganized territory in Itasca County to Harris Township, notwithstanding the petition requirement
- **[H.F. No 15](#) – Frieberg – Passed**
Video conferencing permitted to fulfill the requirement to personally appear before a notarial officer for conveyance; allows real estate transactions to safely proceed during the pandemic, as currently, individuals must meet with a notary in person for their documents to be notarized.
- **[S.F. No. 27](#) - Goggin – Passed**
Modifying the farm loan origination fee grant program; edits legislation that was passed this summer regarding lender mediation by allowing the Commissioner to assist farmers with the mediation process.

One bill that did not pass would have expanded veterans courts throughout greater Minnesota died in the Legislature this week, upsetting veterans organizations that believe this legislation has become a “political pawn” in the run-up to the election. The Veterans Restorative Justice Act, which had bipartisan support and unanimously passed the Minnesota Senate, did not come to the floor in the Minnesota House; House Democrats refused to pass the bill after House Republicans added amendments to the Senate bill.

- **[S.F. No. 2](#) – Chamberlain – Did Not Pass**
Provides guidance to courts on sentencing veterans for criminal offenses related to a service-related disorder; this bill passed in the Senate in both August and September.

Looking Ahead

A possible lame duck Special Sessions in November and December may occur if Governor Walz keeps the Emergency Powers in place but it is anticipated that the 2020 Omnibus Bonding, Tax and Supplemental Budget bill will be the last major legislation passed before January 2021 Session. The 2021 legislative session will focus on the state biennial budget. Minnesota's budget and economic outlook has significantly worsened since the coronavirus pandemic. A deficit of \$2.426 billion is now projected for the current biennium, which is almost a \$4 billion change compared to the February forecast. A new State Economic Forecast will be issued for November.

