

ASSOCIATED GENERAL CONTRACTORS OF MINNESOTA

525 Park Street, Suite 110

St. Paul, MN 55103-2186

Telephone (651) 632-8929 * MN Wats (800) 552-7670 * Fax (651) 632-8928

www.agcmn.org



2009 Legislative Session Summary

By Tim Worke

Director – Highway & Transportation Division

Historic Budget Deficit and Recession Economy Dominate Legislative Deliberations

The bruising 2009 Minnesota legislative session ended under a black cloud of fiscal uncertainty left hanging over the state's financial position. The Legislature began deliberations back in early January facing the daunting task of closing a historic \$6.4 billion budget shortfall by the start of the new fiscal year – July 1, 2009. In February, help arrived from Washington with passage of the federal stimulus package, providing direct aid payments to states and reducing Minnesota's budget red ink to \$4.6 billion.

Over the course of the session, the Governor and legislators could not agree on how to best close the gap, with lawmakers choosing a balance of program cuts, accounting shifts, and tax increases, and the Governor proposing program cuts, accounting shifts, and bond proceeds derived from the use of future tobacco settlement funds. The Legislature left town after passing its version of a budget, leaving Governor Pawlenty the choice of accepting lawmakers' tax increases, vetoing their approach and calling a special session, or pursuing a third, independent option involving unallotment powers and line item vetoes.

Unallotment and Line Item Vetoes

Governors have the authority to unallot (cut spending) at times when the Legislature is not in session and the state's financial position is determined to be in deficit, without calling the Legislature back for a special session. Traditionally, this authority has been used sparingly for relatively small dollar amounts as needed to align spending with fluctuations in revenue. By choosing the unilateral path to unallot and line item veto, the Governor has set the stage for very unsettling times for state programs that rely on General Fund dollars. Governor Pawlenty now sits as the sole budget arbiter, choosing which program areas will be cut and the depth of those cuts.

The good news for transportation interests is that very little General Fund dollars support transportation programs. The ironclad lock of state constitutional protection shields revenue streams like the State Motor Fuel Tax and Motor Vehicle Sales Tax (MVST) from the clutches of budget managers and lawmakers during times of fiscal imbalance. Only a small amount of General Fund dollars supports transit services while road and bridge programs receive no General Fund dollars.

The Veto Option

In addition to executing multiple line item vetoes in numerous spending bills, the Governor also applied his veto pen to a number of high profile (e.g., Medical Marijuana - Chapter 166) and lesser profile (e.g., Technical Transportation Policy - Chapter 151) policy bills passed by lawmakers. A list of bills covering the totality of Governor Pawlenty's veto actions, along with individual veto messages from the Governor, can be viewed at the following web link: http://www.governor.state.mn.us/priorities/legislation/index_NextRow11.htm.

Timing and Constitutional Dedication

It is often stated that timing plays a more important role in politics than the merits of an argument. This is certainly true when examining the fortunes of transportation finance over the last several years. Perhaps the best illustration of this point involves the 2008 veto override and passage of Chapter 152 – Omnibus Transportation Funding Bill. The legislation provides \$6.5 billion in increased investments for transportation over 10 years. A host of increased revenue streams were part of the bill, including an 8.5 cent per gallon increase in the state's gasoline tax - which became the focal point of the policy debate. It is a certainty that had the veto override attempt occurred during the 2009 legislative session the debate would never have occurred and/or the outcome would have been different, leaving transportation advocates adrift once more until both national and state economic conditions improved enough to make another attempt at raising the fuel tax. Additionally, it is noteworthy that exactly one year removed from the override action, the political handwringing over the consequences of raising the state gasoline tax 8.5 cents seems almost comical. On the one year anniversary of the override vote (February 25, 2009), the retail price of fuel was 87 cents per gallon lower than the same date in 2008!

The foresight of pursuing constitutional dedication of the state's Motor Vehicle Sales Tax can also be credited with keeping transportation program revenues on a steady to rising plane during otherwise tight budget times. The successful 2006 ballot initiative led by the coalition Minnesotans for Better Roads and Transit (MBRT) effectively locked away millions of dollars to be used for transportation purposes for generations to come. Lacking the constitutional dedication, lawmakers would have quickly raided the MVST revenues to shore up the flagging General Fund and it would be a long time before those lost dollars would have found their way back to transportation. Stability of revenue streams is important to programs like transportation infrastructure and the value of constitutional dedication for funding sources could not have been better illustrated when viewed against the backdrop of the great 2009 budget debate in St. Paul.



American Recover and Reinvestment Act (ARRA)

During the early months of 2009, transportation interest also moved front and center in the national debate over the struggling U.S. economy. In February, President Obama signed the American Recovery and Reinvestment Act (ARRA) into law, providing much needed aid to states to advance "shovel ready" projects to construction. Minnesota received \$502 million of AARA funds, with roughly \$370 million going to state Trunk Highways and the balance to local partners. This unanticipated revenue helped to bolster a state highway construction program and provide needed market opportunity for the stressed highway/transportation construction industry.

Billed as a jobs program, the ARRA funds will create some 10,500 high paying construction sector jobs in Minnesota and will help advance a host of much needed transportation improvements that over time will sustain and enhance the state and national economic recoveries.

On the building side, the ARRA does little to advance market opportunities or provide meaningful construction employment. Seventy percent of Minnesota's construction industry will be unaffected by the federal stimulus. Minnesota construction employment ranks 10th in the nation in construction job loss for the period 2/08 to 2/09.

Omnibus Transportation Funding Bill

Chapter 36

(HF 1309)

This law provides biennial funding for operations of the Minnesota Department of Transportation, the Metropolitan Council, and the Department of Public Safety.

Highways

The biggest transportation issue this session was managing a drop-off in funding levels projected since last year's passage of Chapter 152 (the historic funding legislation which provided \$6.5 billion of new transportation revenue over the next 10 years). The recession has led to a steep drop-off in car and truck sales which in turn has meant a drop in motor vehicle sales tax revenue and vehicle registration (license tab fee) revenue. Gas tax revenue estimates are also off from last year due to record high fuel costs and a corresponding reduction in vehicle miles traveled. The combined impact of the drop-off in projected revenue collections (approximately \$75 million) along with a desire by the department to shore up the flagging Trunk Highway Fund Balance led the Governor to recommend a cut of \$155 million from the Trunk Highway Fund over the coming biennium. Of the \$155 million total that needed to be cut, the Governor's recommendation was to take \$150 million out of the State Road Construction Program and reduce Mn/DOT's Operating Budget by \$5 million.



The final agreement took on a more measured approach with the State Road Construction Program absorbing a \$120 million reduction and various other program activities shouldering additional reductions as noted below:

Trunk Highway Fund Revenue Reductions (\$155M) in thousands

Infrastructure Operations and Maintenance	\$(17,255)
Infrastructure Investment Support	\$(13,580)
State Road Construction Program	\$(120,000)
Mn/DOT Buildings	\$(2,975)
State Patrol	\$0

NOTE: Should current economic conditions persist, next year's construction program will need to be reduced again to accommodate the drop-off in trunk highway dollars from previous estimates.

Trunk Highway Fund appropriations for Mn/DOT:

FY2010 - \$1,178,053

FY2011 - \$1,286,019

TOTAL: \$2,464,072

State Road Construction appropriations:

FY2010 - \$ 551,300,000
FY2011 - \$ 598,700,000
TOTAL: \$1,150,000,000

Local Roads appropriations:

CSAH FY10 - \$496,786,000 FY11 - \$524,478,000 TOTAL: \$1,021,264,000
MSAS FY10 - \$134,003,000 FY11 - \$141,400,000 TOTAL: \$ 275,403,000

An additional \$40 million in trunk highway bond authority was also authorized in the legislation. The bonds are to be used for:

- construction of interchanges involving a trunk highway where the interchange will promote economic development, increase employment, relieve growing traffic congestion, and promote traffic safety, and;
- local match contribution for any federal grants made available to the state. The amount must be allocated 50 percent to the Metropolitan District and 50 percent to districts in Greater Minnesota. At least \$20M must be used for interchanges.

Transit

Metropolitan Area Transit faced an operating deficit of \$63 million for the biennium. This was later increased to \$76 million due to a further cut of General Fund dollars Metro Transit needed to absorb as part of the global budget negotiation. The \$76 million total shortfall was closed through a combination of shifts within existing programs administered by the Metropolitan Council (Livable Communities Grant Program & RALF Right-of-way Fund) and a temporary adjustment/shift of some Motor Vehicle Sales Tax (MVST) dollars from the Highway User Tax Distribution Fund to transit assistance accounts for Metro Transit and Greater Minnesota transit.



In the agreement, the percentage of MVST revenue allocated to Greater Minnesota Transit and Metropolitan Area Transit was increased for two years. This represents an adjustment to the five-year phase-in schedule implemented as part of the MVST constitutional amendment passed in 2006. The adjustment will temporarily increase the phase-in rate of transfer for transit with a corresponding deceleration of the highway phase-in schedule. The change shifts about \$18.6 million from the Highway User Tax Distribution Fund over the next two years to transit. **Specific language in the bill makes clear the legislative intent that in FY2012 the split between highways and transit will be 60% for highways and 40% for transit.**

Greater Minnesota Transit was projected to incur an \$8 million deficit for the biennium. The change in the MVST distribution will cover \$6 million of the shortfall, leaving an additional \$2 million hole to be closed in the biennium.

Local Government Highway Design-Build Procurement Pilot Program

A three-year pilot program that allows limited use of the design-build procurement process for highway and bridge projects on local road systems was included in the bill. The provisions are modeled closely around the Trunk Highway design-build statutes. The total number of projects that can be authorized is limited to a maximum of 15. A design-build project selection council is established to provide proper review and oversight of candidate projects submitted to utilize the authority. Some of the major provisions include:

Design-build project selection council: A council is created to select appropriate local system design-build highway/bridge projects and duties are identified, including reviewing applications for project inclusion in the design-build pilot program. Specifies elements to evaluate when selecting projects. Mandates the program have no more than 15 projects, with no more than 10 on the county state-aid system and 10 on the municipal state-aid system.

Council membership: Specifies membership on the council (provides for two contractors selected by AGC), requires appointments by August 1, 2009, and provides for convening of the first meeting.

Report to Legislature: An annual report to the Legislature is required by January 15 and must include information on the selected design-build projects, an evaluation of the performance-based measurement process, and any recommendations for future legislation.

Licensing requirements: Establishes minimum qualifications for design-build contractors, including having a licensed designer associated with the firm.

Information session for municipal engineer: Requires the engineer for a municipality that has a design-build project selected under the pilot program must attend an information session with Mn/DOT on the design-build process.

Technical review committee: Requires that the municipality establish a technical review committee to evaluate proposals for a design-build contract, and provides for committee membership, data practices, and conflicts of interest.

Phase one - design-build RFQ: Outlines the required elements of a Request for Qualifications from potential design-build contractors.

Information session for prospective design-build firms: Requires firms seeking a design-build contract under the pilot program must, after an RFQ is solicited, attend an information session with Mn/DOT on the design-build process.

Evaluation: Requires evaluation of responses to the RFQ and creation of a short-list of up to five responders.

Phase two - design-build RFP: Outlines the required elements for a Request for Proposals from potential design-build contractors.

Design-build award; computation; announcement: Establishes procedures for scoring proposals, announcement of scores, and award of a design-build contract. Outlines the method for calculating scores using price and technical score, with an optional time value factor. Provides for a stipulated fee of at least 0.02 percent of estimated project costs to be provided to each short-listed proposer submitting an unsuccessful proposal. Regulates protests by proposers.

Low-bid design-build process: Authorizes use of design-build contracting based on the lowest bidder if the scope of the project is clearly defined, and establishes the contractor selection process.

Effective date and program expiration: The provision is effective the day after enactment, and expires on the earlier of October 1, 2012, or on completion of nine design-build projects under the pilot program.

Additional Policy Provisions

Several smaller policy provisions contained in Chapter 36 deserve note. These include:

Mitigation of transportation construction impacts on business: This provision requires appointment of a liaison between a road authority doing road work on a street or highway and businesses next to the construction or affected by access or parking issues related to the construction. The liaison must provide information to businesses on the status of the construction project.

Stillwater lift bridge endowment account: Creates an endowment account for maintenance and, if necessary, demolition of the Stillwater lift bridge, provides for investment of the funds, specifies uses of the principal and interest, and establishes various account management requirements

Additional Information – Chapter 36

A summary of the legislation can be viewed at <http://www.house.leg.state.mn.us/hrd/bs/86/HF1309.html>.

The text of the complete bill can be reviewed at <https://www.revisor.leg.state.mn.us/bin/bldbill.php?bill=ccrhf1309.html&session=ls86>.

A spread sheet detailing the transportation finance provisions can be accessed through the following link: <http://www.house.leg.state.mn.us/fiscal/files/trans09.pdf>.

Capital Investment (Bonding) Bill Chapter 93 (HF855)

Even though 2009 was not considered a traditional bonding bill year on the legislative calendar, lawmakers passed a modest proposal totaling \$340 million for purposes of acquiring and improving public land and buildings and making other public improvements of a capital nature. The stated purpose of pursuing a bonding bill in 2009 was to help stimulate the construction economy and create construction jobs.



Some highlights of the bill include:

- \$10 M Local System Bridges
- \$8.5 M Central Corridor LRT
- \$26M Intercity Passenger Rail
- \$40 M MNSCU HEAPR
- \$25M U of M HEAPR
- \$53.8M Flood Hazard Mitigation

The full spreadsheet of the final bill, including line item vetoes, can be viewed by accessing the following link: <http://www.house.leg.state.mn.us/fiscal/files/bond09.pdf>.

Capital Investment Line Item Vetoes

Governor Pawlenty signed the Capital Investment bill into law but also exercised several line item vetoes, trimming more than \$85 million from the bill.

A full accounting of the line item vetoes, including the Governor's veto message, can be viewed at http://www.governor.state.mn.us/stellent/groups/public/documents/web_content/prod009522.pdf.

False Claims

Chapter 101

(SF 2082)

The State Government Finance Omnibus Bill contains a section addressing false claims, which provides for a cause of action to impose civil penalties and damages against contractors who assert false claims to public bodies in Minnesota. Private parties may bring lawsuits to enforce these provisions and are even allowed to share in any recovery from the contractor.

False Claims Act provisions are effective July 1, 2010. A summary of the major provisions follows.

Liability for certain acts: Provides that a person who commits any of the acts listed is liable to the state for a civil penalty of between \$5,500 and \$11,000 per false claim, plus three times the amount of damages the state sustains because of the act. The specified acts relate to making various types of false claims for payment or approval to the state, or falsely avoiding or decreasing obligations to transmit money or property to the state.

Specifies circumstances in which a court may assess not less than two times (instead of three times) the amount of damages the state sustains because of an act.

Violators are also liable to the state for the costs of a civil action.

A person is not liable for mere negligence, inadvertence or mistake. Circumstances are specified under which an employer is not liable for acts committed by a non-managerial employee. Specifies other conditions under which, in the absence of specific intent to defraud, a person is not liable if they are informed of fraudulent claims and repay the amount of actual damages.

Responsibilities of prosecuting attorney: Authorizes a prosecuting attorney to investigate violations and to bring civil actions to enjoin violations and to recover damages and penalties.

Private remedies: Authorizes any person to maintain an action on behalf of the person and a public entity if state or political subdivision money, property, or services are involved. Provides that if an action is brought under this section, no other person (including the state) may bring another action under this section based on the same facts while the existing action is pending.

Specifies conditions under which actions cannot be brought, including actions against a public body or actions based on: evidence already known to the state; allegations or transactions that are already the subject of a state proceeding; disclosures made in criminal, civil, or administrative hearings or legislative investigations; public auditor or governing body investigations; or disclosures from the news media.

Requires a person starting an action to notify the Attorney General, including providing a written disclosure of material evidence. The complaint must remain sealed by the court for at least 60 days.

Prosecuting attorney intervention: Provides that within 60 days after receiving a complaint and disclosure, the prosecuting attorney may intervene or decide not to intervene. Regardless of whether or not the prosecuting

attorney intervenes, the attorney may pursue alternative remedies available to the state. If the prosecuting attorney does this, the person initiating the action has the same rights in that proceeding as if the action had continued under the prior section. Findings and conclusions in the other proceeding are conclusive on all parties to an action.

Service of unsealed complaint: Provides that when unsealed, the complaint must be served on the defendant, and the defendant must respond within 20 days.

Prosecuting attorney and private party roles: Provides that if the prosecuting attorney does not intervene, the private party has the same rights in conducting the action as the prosecuting attorney would have had. Provides conditions for later intervention by the prosecuting attorney. Provides that if the prosecuting attorney intervenes, the prosecuting attorney has primary responsibility for prosecuting the action. Provides that the private person remains a party, and specifies the role of the private party.

Stay of discovery: Provides for stay of discovery by a private person if the prosecuting attorney shows this would interfere with prosecution of a civil or criminal matter arising out of the same facts.

Court-imposed limits upon participation of private plaintiff: Allows a court to limit the private person's participation in an action in which the prosecuting attorney has intervened.

Limitation of actions: Provides that actions must be brought within three years of the date of discovery by the prosecuting attorney of fraudulent activity, or within six years after the fraudulent activity occurred, but not more than 10 years after the violation occurred. Specifies the effect of a guilty plea in a criminal action upon an action under this section. The state or a private person who brings an action must prove the essential elements of the claim, including damages, by a preponderance of the evidence.

Award of expenses and attorney fees: Provides that if the prosecuting attorney or a person bringing an action prevails in or settles an action, the court may authorize the person to recover costs, attorney fees, and expert consultant and witness fees from a defendant other than the state or a political subdivision. If the prosecuting attorney does not intervene, and if the defendant prevails, the court must award expenses and attorney fees against the party or parties who participated in the action if the action was clearly frivolous or brought in substantial part for harassment.

Distribution to private plaintiff: Provides that when the prosecuting attorney intervenes at the outset of an action brought by another person, the person shall receive not less than 15 percent or more than 25 percent of any recovery in proportion to the person's contribution to the conduct of the action. If the prosecuting attorney does not intervene at the outset, the person must receive between 25 and 30 percent of any recovery or settlement, as the court determines to be reasonable.

Employer restrictions: Prohibits an employer from forbidding an employee to disclose information to a public entity in furtherance of an action or from discriminating against an employee in terms or conditions of employment because of these disclosures. Specifies civil liability for employer violations.

Reporting: Requires the attorney general to report to the Legislature annually on activities relating to the false claims act.

A copy of the False Claims language (Section 24 of the bill) can be accessed through the following link:
<https://www.revisor.leg.state.mn.us/bin/bldbill.php?bill=ccrsf2082.html&session=ls86>.

Prevailing Wage Changes and Independent Contractor Classification Enforcement

Chapter 78 (HF 2088)

The Omnibus Economic Development Bill included various changes to the reporting, enforcement and penalty provisions of state prevailing wage laws. It also includes language that will help finance and strengthen enforcement of state independent contractor classification rules and requirements.

A copy of the bill text (Article 5 – Prevailing Wages; Independent Contractor Provisions – Article 6, Sec. 17) can be accessed at <https://www.revisor.leg.state.mn.us/bin/bldbill.php?bill=H2088.4.html&session=ls86>.

Prevailing wage provisions:

Contract awards: Provides that an agency is not liable for prevailing wage violations if its contract language requires compliance with prevailing wage laws.

Compliance orders: Requires the commissioner to issue a compliance order for repeated prevailing wage violations.

Prevailing wage records and penalties: This section requires an employer to furnish under oath a certified payroll report for each employee specifying the employee's name, identifying number, job classification, hours worked each day, total hours, rate of pay, gross earnings, tax deductions, total deductions, net pay per week, dollars contributed per hour for benefits, and benefit administrator information.

Prevailing wage rate calculation: This section clarifies the definition of "prevailing wage rate" by adding workers' compensation and unemployment benefits to the calculation.

Employer: The term "employer" is defined to mean an individual, partnership, association, corporation, business trust, or other business entity that hires a laborer, worker, or mechanic.

Contract requirements: Requires prevailing wage proposals and contracts to include applicable prevailing wage determinations and notifications to contractors and subcontractors of the applicability of the state prevailing wage laws. Failure to include the required items shall make the contracting authority liable to the contractor or subcontractor for any increases in wages paid based on the prevailing wage due on the project.

Independent Contractor Misclassification provisions:

Appropriation: \$208,000 is appropriated each year of the biennium for staffing and investigational activities concerning violations of independent contractor registration/status.

Advisory Task Force on Employee Misclassification: Directs the Commissioner of Labor and Industry to appoint an advisory task force on employee misclassification and "off-the-books" payment of workers in the construction industry. Prescribes membership of the task force and its duties and requires the task force to report to the Legislature with a summary of the advice it gives to the Commissioner.

Prompt Payment to Subcontractors

Chapter 66

(HF 1056)

Prompt payment to subcontractors: This section removes the existing residential construction exclusion (fewer than 13 units per structure) and requires the general contractor to promptly pay subcontractors and material suppliers within 10 days of payment receipt for those goods and services.

Prompt payment under existing law means paying within 10 days, with an interest penalty of 1.5 percent per month for nonpayment of undisputed amounts within that time period. This bill does not change that language.

Progress payments and retainages: This section also eliminates the residential construction exclusion (fewer than 13 units per structure) from an existing law requiring prompt payment of progress payments, subject to the right of the owner to reserve retainage.

A copy of the bill can be accessed with the following link:

<https://www.revisor.leg.state.mn.us/bin/bldbill.php?bill=H1056.1.html&session=ls86>.

Residential Home Warranties

Six separate bills were passed by the Legislature affecting residential home warranty provisions of law. Governor Pawlenty vetoed five of the six. The vetoed bills are listed below.

Vetoed

- **Chapter 136 (H.F. 211):** Allowed judges to award attorney fees to a homeowner if they are the prevailing party in a lawsuit enforcing the statutory residential warranties.
- **Chapter 103 (H.F. 239):** Allowed a homeowner to recover short-term housing costs resulting from a breach of the statutory warranties, but prohibits a double recovery.
- **Chapter 112 (H.F. 412):** Modified the statute of limitations for residential warranty actions by allowing a claimant who discovers a breach of warranty more than 10 years after the warranty date to bring an action within one year after discovering the breach, but no more than 12 years after the warranty date.
- **Chapter 140 (HF 362):** Allowed a homeowner to pursue a warranty claim even if the homeowner did not provide written notice to the contractor as required by Section 327A, as long as the homeowner established the contractor had actual knowledge of the loss or damage.
- **Chapter 112 (HF 330):** Allowed homeowners a longer period (one year vs. current 6 months) within which to notify contractors of construction defects.

Home Warranty Modification

Chapter 91

(HF 420)

This bill was passed and signed into law. It requires the builder to provide a copy of the warranty with their contract to the homeowner. The bill also turns the statutory warranty into an express warranty.

A copy of the bill can be accessed with the following link:

<https://www.revisor.leg.state.mn.us/bin/bldbill.php?bill=H0420.2.html&session=ls86>.

Primary Seat Belt Chapter 165 (HF 108)

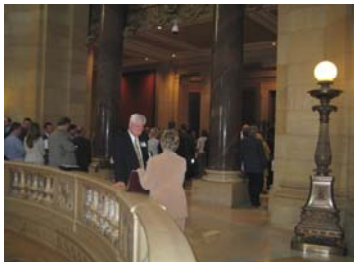
This bill makes changes to state traffic and vehicle laws that:

- Require that everyone traveling in a passenger-type vehicle or commercial motor vehicle must wear a seat belt;
- Make failure to wear a seat belt a “primary offense.” Allows citations to be issued solely for a seat belt violation;
- Modify fines paid by a vehicle driver for certain passenger seat belt noncompliance;
- Apply the same seat belt requirements to instruction permit and provisional driver’s license holders.

The provisions were effective June 9, 2009.

Vertical Construction Stimulus Bill (H.F. 2364/S.F. 2078)

This initiative was championed by AGC of Minnesota along with a variety of construction industry partners (Vertical Construction Jobs Coalition) in response to the impact the recession, restricted credit markets, and the lack of a federal building stimulus program are having on the vertical construction markets. Seventy percent of Minnesota’s construction industry will be unaffected by the federal stimulus.



The Coalition held a Day at the Capitol to allow Coalition members to have individual meetings with state legislators. The day was a huge success as over 100 Coalition members participated.

The state legislation ultimately failed to pass. The initiative would have created several programs designed to encourage economic activity and development, including a loan guaranty fund, restrictions on certain environmental reviews, new revenue bonding for green building projects, tax credits for historic rehabilitation and low income housing, special assessment authority for energy improvements, tax increment financing projects, and a state loan program to advance federal first-time home buyer credits.

On Line Legislative Resources

Additional information regarding actions of the 2009 Legislature that passed into law and/or veto actions by the Governor can be found at http://www.house.leg.state.mn.us/bills/chapters.asp?ls_year=86&session_number=0.

2010 Session

The 2010 legislative session is set to convene on Thursday, February 4, 2010. The second year of the biennium will largely be focused on a comprehensive bonding bill and supplemental budget. In 2010, the entire Senate and House of Representatives, as well as the Office of the Governor, are up for election. Governor Pawlenty has recently announced he will not be seeking a third term, adding to the political intrigue. While the Governor is widely believed to be interested in a run for the White House in 2012, his announced departure from the Governor's race leaves the field wide open. A multitude of Republican and Democrat legislators have already announcing interest in the state's chief executive job.

With the economy seemingly slow to improve, legislators will again likely be faced with a difficult budget situation. Much of the 2010 budget solution utilizes financial accounting shifts into subsequent years of the biennium. While temporarily solving the immediate balanced budget dilemma, accounting shifts across fiscal calendars simply buy time in the hope that economic indicators change for the better. Lacking a stunning economic turnaround in the coming 10 months, legislators will again be saddled with the unpopular choices of cutting services and/or raising taxes – all in the shadow of political posturing for the 2010 elections.