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Minnesota House of Representatives

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TO: Members, Cultural and Outdoor Resources Finance Committee

FROM: Patrick McCormack
Mark Shepard

RE: Background on 3/8 Constitutional Amendment

The 2008 legislature passed Chapter 151, placing an initiative to fund natural and cultural resources through a dedicated sales tax onto the November ballot. The voters passed this initiative and amended the constitution. The legislature also passed a law creating an advisory group to recommend projects to be supported by the outdoor heritage fund created within Chapter 151, the Lessard Outdoor Heritage Council (Minnesota Statutes, section 97A.056). This memo provides background on issues that will be faced by the new Cultural and Outdoor Resources Finance division in making appropriations from these new funds.

What passed into the Constitution? Into the law?

Chapter 151, and the subsequent passage of the ballot initiative, had the following effects:

- The sales and use tax has been increased, effective July 1, 2009, by 3/8 of one percent;
- This persists until the year 2034;
- The funds are allocated into 5 broad categories for outdoor heritage, clean waters, sustainable drinking water, parks and trails, and arts and cultural heritage expenditures (see chart);
- The money dedicated under this section of the constitution must be appropriated by law;
- A sentence is placed in the constitution: "The dedicated money under this section must supplement traditional sources of funding for these purposes and may not be used as a substitute."
- A provision requiring acquired land to be open for hunting and fishing under specified conditions is stated;

- Language ensures that the 3/8 tax is adjusted, if the sales and use tax base is changed by law.

These provisions are open to public, legislative, and judicial interpretation, but do constrain these funds to use for the purposes stated, and create a partial template for future legislation in this area.

How are the funds divided?

This table outlines some of the basic facts about the new funds created via Chapter 151:

Fund Name	Purpose
Outdoor Heritage Fund: 33%	Restore, protect, and enhance wetlands, prairies, forests, and habitat for fish game and wildlife
Clean Water Fund: 33%	Protect, enhance, and restore water quality in lakes, rivers, and streams, and to protect ground water from degradation. At least 5% of this fund may be spent only to protect drinking water sources.
Parks and Trails Fund: 14.25%	To support parks and trails of regional or statewide significance.
Arts and Cultural Heritage Fund: 19.75%	For arts, arts education, and arts access, and to preserve Minnesota's history and cultural heritage.

Timing

The additional tax created by this Act is collected beginning July 1, 2009, continuing through 2034. These taxes are first deposited by the Department of Revenue beginning August 15, 2009. The tax rate is set, as to the current tax base, but if the tax base is changed, the rate may be shifted, per the constitutional requirement, to ensure that the amount of funds raised stays constant over time. However, it is not clear how much money will be raised by these new taxes, because the revenues are dependent on the state of the economy, and are sensitive to expenditures by the public.

Original estimates were that the 3/8 sales tax would raise about \$300 million per year. At this point, an optimistic estimate for revenues might be about \$240 million per year. This unofficial estimate would divide, by law, as follows:

Forecasted Constitutional Amendment Funds Receipts (In Thousands)						
FUND	FY 2010	FY 2011	FY 2010-11	FY 2012	FY 2013	FY 2012-2013
Outdoor Heritage (33%)	79,728	83,028	162,756	86,427	90,024	176,451
Clean Water (33%) {Drinking Water 5% min. }	79,728 {3,986}	83,028 {4,151}	162,756 {8,137}	86,427 { 4,321}	90,024 {4,501}	176,451 {8,822}
Parks & Trails (14.25%)	34,428	35,853	70,281	37,321	38,874	76,195
Arts & Cultural Heritage (19.75%)	47,716	49,691	97,407	51,725	53,878	105,603
TOTAL ALL FUNDS (100%)	241,600	251,600	493,200	261,900	272,800	534,700

Source: November 2008 Forecast, Consolidated Fund Statement, Minnesota Management and Budget

These amounts are estimates, and in fact, are probably optimistic at this point. The actual amounts will vary according to real world sales and revenue collected. The February forecast is likely to show significant reductions in these amounts.

Responsibilities

The legislature is responsible for deciding how to spend these monies, and the Governor is also responsible, to sign or veto the expenditures. This is because the constitutional amendment says: "The money dedicated under this section shall be appropriated by law."

The legislature has created one official body to give advice regarding how to expend these monies. The Lessard Outdoor Heritage Council is charged with making recommendations on appropriations from the outdoor heritage fund. Initial recommendations are due April 1, 2009, and future recommendations by January 15th of each year. The Lessard Council is also allowed to consult with the Clean Water Council and identify projects consistent with the purpose of the outdoor heritage fund and the purpose of the clean water fund. (Under a separate law, the Clean Water Council makes recommendations for expenditures from the clean water legacy account in the environmental fund.)