

STATE OF MINNESOTA

IN SUPREME COURT

Deanna Brayton, Darlene Bullock,
Forough Mahabady, Debra Branley,
Marlene Griffin and Evelyn Bernhagen,
on behalf of themselves and all others
similarly situated,

Respondents,

vs.

Tim Pawlenty, Governor of the State
of Minnesota, Thomas Hanson,
Commissioner, Minnesota Department
of Management and Budget, Cal Ludeman,
Minnesota Department of Human Services,
and Ward Einess, Commissioner,
Minnesota Department of Revenue,

Petitioners.

**MOTION FOR EXPEDITED
CONSIDERATION OF
PETITION FOR
ACCELERATED REVIEW**

Trial Court Case No. 62-CV-09-11693

Appellate Court Case No. _____

Petitioners hereby move the Court for expedited consideration of their request for accelerated review of this appeal from the district court's judgment voiding the unallotment of \$5.33 million in funding this biennium for the Minnesota Supplemental Aid-Special Diet program. Respondents support this motion, just as they likewise support the petition for accelerated review and the corresponding motion for expedited review in this Court. The normal timeframe for determining whether to grant a petition for accelerated review is too long in this instance.

As explained in the petition, time is of the essence in this case because the district court's decision implicates the validity of other unallotments made by the executive branch to eliminate an approximate \$2.7 billion deficit in the State's budget for the

current biennium of July 1, 2009 to June 30, 2011. Moreover, an additional deficit of \$1.2 billion for the biennium was projected in the November 2009 Economic Forecast. Resolution of this appeal will assist the executive and legislative branches in addressing the ongoing State budget crisis. The legislative session begins February 4, 2010, and ends by May 17, 2010. The first year of the biennium ends June 30, 2010. Given its magnitude, the deficit in the State's biennial budget becomes increasingly difficult to resolve as time passes and less of the biennium remains.

Accordingly, Petitioners respectfully request that the Court expedite its determination whether to grant accelerated review of this appeal.

Dated: January 12, 2010

Respectfully submitted,

LORI SWANSON
Attorney General
State of Minnesota



ALAN I. GILBERT
Solicitor General
Atty. Reg. No. 0034678

JOHN S. GARRY
Assistant Attorney General
Atty. Reg. No. 0208899

JEFFREY J. HARRINGTON
Assistant Attorney General
Atty. Reg. No. 0327980

445 Minnesota Street, Suite 1100
St. Paul, Minnesota 55101-2128
(651) 757-1450

ATTORNEYS FOR PETITIONERS

Dated: January 12, 2010



PATRICK D. ROBBEN

General Counsel to Governor Tim Pawlenty
Office of Governor
Atty. Reg. No. 0284166

130 State Capitol
75 Rev. Dr. Martin Luther King Jr. Blvd.
St Paul, Minnesota 55155
(651) 282-3705

ATTORNEY FOR PETITIONER
GOVERNOR TIM PAWLENTY

AG: #2568702-v1

STATE OF MINNESOTA

IN SUPREME COURT

Deanna Brayton, Darlene Bullock,
Forough Mahabady, Debra Branley,
Marlene Griffin and Evelyn Bernhagen,
on behalf of themselves and all others
similarly situated,

Respondents,

vs.

Tim Pawlenty, Governor of the State
of Minnesota, Thomas Hanson,
Commissioner, Minnesota Department
of Management and Budget, Cal Ludeman,
Minnesota Department of Human Services,
and Ward Einess, Commissioner,
Minnesota Department of Revenue,

Appellants.

**APPELLANTS' MOTION
FOR EXPEDITED REVIEW
IN SUPREME COURT**

Trial Court Case No. 62-CV-09-11693

Appellate Court Case No. _____

Appellants have petitioned for accelerated review of this appeal from the district court's judgment voiding the unallotment of funding this biennium for the Minnesota Supplemental Aid-Special Diet program. Appellants hereby move for expedited review of the appeal in the Supreme Court if their petition for accelerated review is granted. Respondents support this motion, just as they support granting accelerated review.

For the reasons set forth in the petition for accelerated review, and the motion for expedited consideration of the petition, it is in the public interest that this appeal be resolved on an expedited basis. Thus, pursuant to its authority under Minn. R. Civ. App. P. 102, the Court should set a shortened briefing schedule and an early date for oral argument upon granting accelerated review.

This course was followed in *State v. Philip Morris USA, Inc.*, 713 N.W.2d 350 (Minn. 2006), where the Court granted accelerated review of the December 2005 district court decision that created a potential deficit in the State budget by invalidating the Health Impact Fee. In granting accelerated review in January, the Court set a shortened briefing schedule and placed the case on its April oral-argument calendar. Order, No. A05-2540 (Jan. 19, 2006). The Court then issued its opinion in mid-May. Expedited review is even more appropriate here, given the much larger and more pressing fiscal consequences.

Accordingly, Appellants respectfully request that the Court set an expedited schedule for briefing and oral argument upon granting the petition for accelerated review.

Dated: January 12, 2010

Respectfully submitted,

LORI SWANSON
Attorney General
State of Minnesota



ALAN I. GILBERT
Solicitor General
Atty. Reg. No. 0034678

JOHN S. GARRY
Assistant Attorney General
Atty. Reg. No. 0208899

JEFFREY J. HARRINGTON
Assistant Attorney General
Atty. Reg. No. 0327980

445 Minnesota Street, Suite 1100
St. Paul, Minnesota 55101-2128
(651) 757-1450

ATTORNEYS FOR APPELLANTS

Dated: January 12, 2010



PATRICK D. ROBBEN
General Counsel to Governor Tim Pawlenty
Office of Governor
Atty. Reg. No. 0284166

130 State Capitol
75 Rev. Dr. Martin Luther King Jr. Blvd.
St Paul, Minnesota 55155
(651) 282-3705

ATTORNEY FOR APPELLANT
GOVERNOR TIM PAWLENTY

AG: #2568703-v1

