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April 17, 2025

Attn: Chris Steller  
Legislative Reference Library  
Centennial Office Building  
658 Cedar Street  
St. Paul, MN 55155-1050

**Re: *Report Concerning Certain Expenditures from the Trunk Highway Fund in the FY2026-2027 Biennial Budget***

Dear Mr. Steller:

Enclosed please find two copies of the above-referenced Report prepared by Minnesota Management & Budget and the Office of the Attorney General. An electronic copy of this Report was also e-mailed to [reports@lrl.leg.mn](mailto:reports@lrl.leg.mn).

If you have any questions, please contact me at the number listed below.

Sincerely,

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Enclosure

cc: The Honorable D. Scott Dibble (via email)  
The Honorable Erin Koegel (via email)  
The Honorable Jon Koznick (via email)  
Erin Campbell, Commissioner, MMB (via email)

**REPORT CONCERNING  
CERTAIN EXPENDITURES  
FROM THE TRUNK  
HIGHWAY FUND IN THE  
FY2026-2027  
BIENNIAL BUDGET**

PREPARED BY

MINNESOTA MANAGEMENT & BUDGET  
(Formerly Minnesota Department of Finance)

AND

OFFICE OF THE ATTORNEY GENERAL

April 2025

## I. BACKGROUND.

The Minnesota Constitution provides that “[t]here is hereby created a trunk highway system which shall be constructed, improved and maintained as public highways by the state.” *See* Minn. Const., art. 14, sec. 2. The constitution also states that “[t]here is hereby created a trunk highway fund which shall be used solely for the purposes specified in section 2 of this article and the payment of principal and interest of any bonds issued prior to July 1, 1957.” *See* Minn. Const., art. 14, sec. 6. Prior to 2000, Minn. Stat. § 161.20, subd. 3, stated that “[t]he commissioner may expend trunk highway funds only for trunk highway purposes.” Minn. Stat. § 161.20, subd. 3 (1998).<sup>1</sup>

In 2000, however, the Minnesota Legislature amended section 161.20, subd. 3, adding that “[p]ayment of expenses related to *sales tax, bureau of criminal apprehension laboratory, office of tourism kiosks, Minnesota safety council, tort claims, driver education programs, emergency medical services board, and Mississippi River parkway commission* do not further a highway purpose and do not aid in the construction, improvement, or maintenance of the highway system.” Minn. Laws 2000, ch. 479, art. 2, sec. 4. (Emphasis added.) For these eight areas of expenditure, the Minnesota Legislature converted the source of appropriation for each from the Trunk Highway Fund (“THF”) to the General Fund.

Minn. Laws 2000, ch. 479, art. 2, sec. 1, also directed preparation of a report as follows for subsequent biennial budget proposals:

Section 1. [PROHIBITION AGAINST APPROPRIATIONS FROM TRUNK HIGHWAY FUND.] To ensure compliance with the Minnesota Constitution, article XIV, sections 2, 5, and 6, the commissioner of finance, agency directors, and legislative commission personnel may not include in the biennial budget for *fiscal years 2002 and 2003, or in any budget thereafter*, expenditures

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<sup>1</sup> In 1998 and 2000, “Commissioner” was defined to mean the commissioner of transportation. *See* Minn. Stat. § 161.20, subd. 3 (1998) and Minn. Stat. § 160.02, subd. 8 (1998).

from the trunk highway fund for a *nonhighway purpose as jointly determined by the commissioner of finance and the attorney general*. For purposes of this section, an expenditure for a *nonhighway purpose is any expenditure not for construction, improvement, or maintenance of highways*, but does not include expenditures for payment of taxes imposed under Minnesota Statutes, chapter 297A. At the time of submission of the biennial budget proposal to the legislature, *the commissioner of finance and the attorney general shall report to the senate and house of representatives transportation committees concerning any expenditure that is proposed to be appropriated from the trunk highway fund, if that expenditure is similar to those reduced or eliminated in sections 5 to 20. The report must explain the highway purpose of, and recommend a fund to be charged for, the proposed expenditure*, [EFFECTIVE DATE.] This section is effective the day following final enactment.

(Emphasis added.) The original eight expenditure areas in 2000 in section 161.20, subd. 3 (sales tax, bureau of criminal apprehension (“BCA”) laboratory, office of tourism kiosks, Minnesota safety council, tort claims, driver education programs, emergency medical services board, and Mississippi River parkway commission) are the appropriations referenced above that were “reduced or eliminated in sections 5 to 20” of Minn. Laws 2000, ch. 479, art. 2, sec. 1.

Since 2000, the Minnesota Legislature has changed the original eight expenditure areas that were reduced or eliminated for reimbursement by the THF as follows: sales tax was deleted from the list (Minn. Laws 2003, 1<sup>st</sup> Special Session, ch. 19, art. 2, sec. 9); personnel costs incurred on behalf of the Governor’s Office was added to the list (Minn. Laws 2009, ch. 36, art. 3, sec. 3); tort claims was deleted from the list, and payment to MN.IT Services in excess of actual costs incurred for trunk highway purposes was added to the list (Minn. Laws 2013, ch. 117, art. 3, sec. 2).

Currently, the Legislature directs that payment of expenses related to the following eight areas “do not further a highway purpose and do not aid in the construction, improvement, or maintenance of the highway system” for reimbursement by the THF:

1. Bureau of Criminal Apprehension laboratory;
2. Explore Minnesota Tourism kiosks;
3. Minnesota Safety Council;

4. driver education programs;
5. Emergency Medical Services Board;
6. Mississippi River Parkway Commission;
7. payments to MN.IT Services in excess of actual costs incurred for trunk highway purposes; and
8. personnel costs on behalf of the Governor's Office.

Pursuant to the current legislative mandate, if an expenditure in the biennial budget proposal is similar to the eight areas identified above, this report “must explain the highway purpose of” the proposed expenditure.

Legislative changes have continued to affect the Trunk Highway Fund. For example, the Legislature recently changed the definition of “Commissioner” to include not only the Commissioner of the Department of Transportation, but any commissioner proposing to spend funds from the Trunk Highway Fund. (Minn. Laws 2021, 1<sup>st</sup> Special Session, ch. 5, art. 4, sec. 1); *See also* Minn. Stat. § 16A.11, subd. 3d(a). Notably, the commissioner proposing the expenditure must include a detailed narrative about what the appropriation is for and how much money is being requested. *See* Minn. Stat. § 16A.11, subd. 3d(b). Effective July 1, 2022, Minnesota Statutes Section 16A.11, was amended by adding a subdivision to read as follows:

**Subd. 3d. Highway user tax distribution fund and trunk highway funds details.**

(a) For purposes of this subdivision, "commissioner" means any commissioner of a state agency that proposes to spend funds out of the highway user tax distribution fund or the trunk highway fund.

(b) A commissioner must include detailed information about proposed appropriations from the highway user tax distribution fund or the trunk highway fund. At a minimum, the commissioner must include a detailed narrative describing the specific purposes for which the funds will be spent and an estimated appropriation for each purpose.

Minn. Stat. § 16A.11, subd. 3d(a-b).

During that same 1<sup>st</sup> Special Session in 2021, the Legislature took steps to repeal Minn. Stat. § 161.20, with the repeal set to become effective July 1, 2025. In its place, the Legislature

enacted Section 161.045, which was also to become effective on July 1, 2025. As a result, the original eight areas limiting expenditures from the Trunk Highway Fund first identified in Section 161.20, would be expanded upon and set forth in Section 161.045 effective on July 1, 2025, as follows:

Subd. 1. **Definition.** For purposes of this section, “commissioner” means any commissioner of a state agency that either proposes to spend or spends funds out of the highway user tax distribution fund or the trunk highway fund:

Subd. 2. **General expenditure requirements.** A commissioner may expend highway user tax distribution funds only for highway purposes and may expend trunk highway funds only for trunk highway purposes.

Subd. 3. **Limitations on spending.** (a) A commissioner must not pay for any of the following with funds from the highway user tax distribution fund or the trunk highway fund:

- (1) Bureau of Criminal Apprehension laboratory;
- (2) Explore Minnesota Tourism kiosks;
- (3) Minnesota Safety Council;
- (4) driver education programs;
- (5) Office of Emergency Medical Services;
- (6) Mississippi River Parkway Commission;
- (7) payments to the Department of Information Technology Services in excess of actual costs incurred for trunk highway purposes;
- (8) personnel costs incurred on behalf of the governor's office;
- (9) the Office of Aeronautics within the Department of Transportation;
- (10) the Office of Transit and Active Transportation within the Department of Transportation;
- (11) the Office of Passenger Rail;
- (12) purchase and maintenance of soft body armor under section 299A.38;
- (13) tourist information centers;
- (14) parades, events, or sponsorships of events;

(15) the installation, construction, expansion, or maintenance of public electric vehicle infrastructure;

(16) the statewide notification center for excavation services pursuant to chapter 216D; and

(17) manufacturing license plates.

(b) The prohibition in paragraph (a) includes all expenses for the named entity or program, including but not limited to payroll, purchased services, supplies, repairs, and equipment. This prohibition on spending applies to any successor entities or programs that are substantially similar to the entity or program named in this subdivision.

Minn. Stat. § 161.045, subd. 3(a-b).

Therefore, pursuant to the legislative mandate, “a commissioner may expend trunk highway funds only for trunk highway purposes.” Minn. Stat. § 161.045, subd. 2. In addition, “a commissioner must not pay for any of” the listed items in Minn. Stat. 161.045, subd. 3(a). *Id.* And at a minimum, the commissioner “must include a detailed narrative describing the specific purposes for which the funds will be spent and an estimation appropriation for each purpose.” Minn. Stat. § 16A.11, subd. 3d(a). This Report will identify expenditures that appear to be like those that are limited by Minn. Stat. 161.045, subd. 3(a-b).

## **II. CASE LAW REGARDING APPROPRIATIONS FROM THE THF.**

The Minnesota Supreme Court has reviewed several challenges to appropriations made from the THF and concluded that certain expenditures are properly charged to the THF. *See, e.g., Cory v. King*, 209 Minn. 431, 296 N.W. 506 (1941) (recognizing that “certain agencies such as the *state highway patrol* are properly incorporated with the highway department and the expense of their maintenance is properly charged to the highway fund” and holding that the THF “be used ‘solely’ for highway purposes” and not to defray the general costs of government) (Emphasis added); *State ex rel. Holm v. King*, 184 Minn. 250, 238 N.W. 334 (1931) (holding that appropriation from the THF to cover the costs of the secretary of state in issuing motor vehicle

license and collecting the license tax is constitutional); *Cory v. King*, 214 Minn. 535, 8 N.W.2d 614 (1943) (holding that appropriating money from the THF to the offices of the auditor, treasurer, department of civil service, and commissioner of administration to defray their expenses reasonably attributable to highway matters does not violate the constitution); *Cory v. King*, 227 Minn. 551, 35 N.W.2d 807 (1949) (holding that the THF may be charged for services provided by the state tax department to collect the gasoline tax provided the amount charged accurately reflects expenses incurred for such service).

The court has also set forth certain general principles that govern determination of whether an expenditure is for “highway purposes.” The court has stated that the constitutional provisions at issue “are of broad import and do not of themselves define the functional use of a public highway or what constitutes proper construction, reconstruction, improvements, and highway maintenance costs.” *Minneapolis Gas. Co. v. Zimmerman*, 253 Minn. 164, 171, 91 N.W.2d 642, 648 (1958). More specifically, the court observed that: “It would be unreasonable to hold that the proceeds of the highway fund may not be expended for whatever is reasonably necessary to the complete accomplishment of all the basic purposes for which a highway exists.” 253 Minn. at 173, 91 N.W.2d at 649-50.

### **III. SUBSEQUENT BIENNIAL BUDGET PROPOSALS AFTER 2000 STILL INCLUDED APPROPRIATIONS FOR LIMITED CATEGORIES OF SPENDING.**

Since 2001, numerous biennial budget proposals have included recommendations that THF monies be appropriated for expenditures in at least two of the eight categories previously reduced or eliminated by the Minnesota Legislature – tort claims and the BCA laboratory. And in numerous years including, for example, each odd year between 2003 and 2023, the Minnesota Legislature appropriated monies from the THF for highway-related tort claims and BCA expenses, notwithstanding the legislation enacted in 2000 restricting the payment of such costs from the

THF. In 2013, the Minnesota Legislature amended the 2000 legislation to delete tort claims from the list of restricted THF expenditures, but did not make a similar change as to BCA laboratory costs. The Minnesota Legislature apparently allowed the payment of tort claims and BCA laboratory costs based on an analysis of case law interpreting the state constitutional provision. In 2015, 2017, 2019, 2021, and 2023, however, the Minnesota Legislature again appropriated monies from the THF for BCA expenses, notwithstanding the legislation enacted in 2000 restricting the payment of such costs from the THF.

#### **IV. THE 2025 BUDGET REQUEST FOR FY2026-2027: THE DEPARTMENT OF TRANSPORTATION (MNDOT) AND THE DEPARTMENT OF PUBLIC SAFETY (DPS).**

The current biennial budget proposal contains requests for expenditures from the THF on behalf of MnDOT and DPS. Under the law and as a threshold matter, expenditure of trunk highway funds may only be made for trunk highway purposes. Minn. Stat. § 161.20, subd. 3; Minn. Stat. § 161.045, subd. 2. There are seven MnDOT Change Items and four DPS Change Items for review under the threshold rubric of determining the extent to which the funds will be expended for a highway purpose.

There are also two categories of appropriation in the current biennial budget that appear similar to the eliminated expenditures from the THF enumerated in Minn. Stat. § 161.20, subd. 3 and Minn. Stat. § 161.045, subd. 3(a)(1) and 3(a)(7): ongoing BCA laboratory costs at \$2.429 million per year from the THF for staff and operating costs for laboratory analysis related to driving-while impaired cases is recommended (Minn. Laws 2023, ch. 52, art. 2, sec. 3, subd. 4); *see also* <https://mn.gov/mmb-stat/documents/budget/2026-27-biennial-budget-books/governors-recommendations-january/public-safety-public-safety.pdf>, and IT Services costs are included in both MnDOT and DPS budget proposal Change Items.

A third category is not similar to eliminated expenditures, but is a divided-cost

appropriation (part from the general fund and part from the THF) in one DPS Change Item, *Operating Adjustment*, and in one Transportation Change Item, also *Operating Adjustment*, which under current case law should be analyzed to determine if the portion of the cost requested from the THF is for a trunk highway purpose. *See* Section IV. B. below.

**A. BCA Laboratory Costs.**

The biennial budget for FY 2026 and FY 2027 provides, in part, for payment from the THF for a portion for BCA laboratory costs. (Minn. Laws 2023, ch. 52, art. 2, sec. 3, subd. 4); *see also* <https://mn.gov/mmb-stat/documents/budget/2026-27-biennial-budget-books/governors-recommendations-january/public-safety-public-safety.pdf>. BCA laboratory costs are still a restricted category of THF expense. Minn. Stat. § 161.20, subd. 3; Minn. Stat. § 161.045, subd. 3(a)(1). Although case law can be interpreted to allow payment of a proportionate share of BCA laboratory costs from the THF, it is unclear that a court would agree with that interpretation. If the Minnesota Legislature decides again to fund such costs from the THF, it should amend the 2000 legislation and other statutory provisions to delete BCA laboratory costs from the list of restricted THF expenditures, as it did for tort claims in 2013.

**B. IT Services Costs in MnDOT and DPS Change Items.**

The current MnDOT and DPS budget proposals include requested appropriations in FY 2026 and FY 2029 from the THF for IT services costs. Payments to the Department of Information Technology Services, in excess of actual costs incurred for trunk highway purposes, are restricted.

One MnDOT Change Item, *Operating Adjustment*, includes funding of “\$22.2 million in FY 2026 and \$32.8 million in each subsequent year from the trunk highway fund to help address operating costs at MnDOT.” The Governor also recommends “\$146,000 in FY 2026 and \$296,000

each year thereafter from the general fund to help address operating cost increases.” The Change Item states that: growing “operating costs, like rent and lease, fuel and utilities, and IT and legal services” acts to put “pressure on agency operating budgets that remain flat year to year.” MMB similarly reports that the “proposal is for additional funding to help address operating costs increases at the Department of Transportation.” In prior budget years, MMB reported that similar requests demonstrated that MnDOT’s operating budget is primarily supported by the THF, and that the requested increase from the THF to IT services reflects an increase in IT funding that has previously been attributed to trunk highway purposes. The MnDOT *Operating Adjustment* Change Item that includes IT services is also a divided-cost appropriation (part from the general fund and part from the THF), which under current case law should be analyzed to determine if the portion of the cost requested from the THF is for a trunk highway purpose.

Similarly, a DPS Change Item, *Operating Adjustment*, includes a funding request for “\$3.037 million in FY 2026 and \$5.034 million in each subsequent year from the trunk highway fund.” The Change Item states that: growing “operating costs, like rent and lease, fuel and utilities, and IT and legal services” acts to put “pressure on agency operating budgets that remain flat year to year.” MMB reports that: “This proposal is for additional funding to help address operating cost increases at the department of Public Safety.” The DPS *Operating Adjustment* Change Item also is also a divided-cost appropriation (with additional funding of \$107,000 in FY 2026 and \$141,000 in each subsequent year thereafter requested from the general fund, and \$950,000 in FY 2026 and \$952,000 in each subsequent year thereafter from the special revenue fund, along with the request from the trunk highway fund), which under current case law should be analyzed to determine if the portion of the cost requested from the THF is for a trunk highway purpose.

### C. **DPS Change Items.**

The DPS Change Item, *State Patrol Recruitment and Hiring Initiatives*, provides “dedicated marketing funds for each fiscal year for advertising services” and funds to hire “one Lieutenant and two Technical Sergeants for recruitment” along with “three Technical Sergeants for Training and Development for training academes: and funds to “host two State Patrol Trooper Training Academies per year.” The Change Item recommends “\$1,045,000 million in FY 2026 and FY 2027 and \$10,365,000 in each year starting in FY 2028 from the [THF]” to increase “the overall workforce complement of the State Patrol to fill existing and vacant positions.” DPS proposes that “having more Minnesota State Patrol Troopers would directly correlate to being more effective when carrying out agency missions and goals” and “will also strengthen efforts of reducing deaths and injuries on Minnesota’s roadways through enforcement and education aligning with the Minnesota State Patrol Strategic Plan.” MMB reports “MSP states that these additional FTEs, as well as administering additional training academies, is necessary to improve recruitment initiatives and increase the hiring of currently vacant State Patrol trooper positions.”

The DPS Change Item, *State Patrol Headquarters Building*, provides for \$48,513,000 as the expenditure from the THF in each of FY 2026 and FY 2027 to DPS, MSP division “for the building, construction, and equipping of a new MSP headquarters operations facility. Similarly, District 2400 East Metro, District 2500 West Metro, and District 4700 Commercial Vehicle offices (Oakdale, Golden Valley, Mendota Heights respectively) are situated in buildings that were not designed to be secure, professional law enforcement facilities.” The Change Item states that: “[T]his funding would be utilized for the building, construction, and equipping a new State Patrol Metro Headquarters Facility which would bring six fragmented and small leased facilities spread throughout several counties into one complex. Funding would also be used to update existing

space in District 2400 and District 2500 to serve as professional, secure substations.”

Notably, MMB reports that the “proposal would fund the new State Patrol headquarters construction project. This \$97m in trunk highway fund cash would be combined with \$22.5m appropriated from trunk highway fund cash in the 2024 legislative session for design and land acquisition. The \$22.5m was a 2024 Gov Rec in the capital budget.”

The DPS Change Item, *Planning and Administration Match—Office of Traffic Safety* (OTS), provides for \$485,000 in additional ongoing funding starting in FY 2026 from the trunk highway fund to the Department of Public Safety to use as a match for federal funds for management and oversight of operations at the OTS. MMB states that “this funding would be used to hire the two additional FTEs and support and expand community engagement activities through an expanded Public Participation and Engagement program.” MMB indicates DPS states that “funding from the National Highway Traffic Safety Administration (NHTSA) requires a non-federal match, with a 50 percent state match requirement for all federal funds for planning and administration.” MMB further indicates that “OTS states that it is currently eligible for \$1.3 million in federal funds for planning and administration purposes, but that it only receives enough THF funding for a \$615,000 match. Additionally, OTS states that this 50 percent match requirement makes it difficult to hire additional staff for planning and administration. This proposal would allow OTS to fully leverage the federal match for planning and administration funding.”

#### **D. MnDOT Change Items.**

The MnDOT Change Item, *Metropolitan Planning Organization (MPO) Grant Increase*, provides for payment of \$34,000 per year of base trunk highway funds in FY 2026 and beyond for the MPO grant increases. MPOs are federally required transportation policymaking and planning

bodies for urban areas. MMB indicates that “the seven MPOs outside the metropolitan area currently receive \$266,000 from the trunk highway fund annually – this proposal would increase annual funding to \$300,000 which has not been increased since 2003.”

With the MnDOT Change Item, *Corridor Planning*, MnDOT seeks \$3,000,000 per year in ongoing funds from the trunk highway fund to support statewide corridor planning, which allows for proactive planning and prioritization of upcoming projects. MMB indicates that “the intent of these efforts is to increase the efficient use of resources by better selection and development of future state highway projects.”

With the MnDOT Change Item, *Recruitment and Retention*, MnDOT requests \$765,000 per year in base trunk highway funds in FY 2026 and beyond from the trunk highway fund to improve recruitment and retention of department employees. MMB reports that “the ongoing funding would support human resources staff. Strong and effective recruitment and retention efforts would help the department attract and retain skilled employees, ultimately improving services and programs.”

The MnDOT Change Item, *Facilities Modernization*, MnDOT requests \$3,200,000 per year of base trunk highway funding in FY 2026 and beyond for MnDOT facilities modernization projects. MMB indicates that this increase in funding is “for improving department facilities, including weatherization, HVAC, basic fixtures, and other modernizations. Funds would be used to improve truck stations, not the department’s central office building.”

With the MnDOT Change Item, *State Road Construction Appropriation Increase*, the Governor recommends an increase to the State Road Construction (SRC) appropriation in the trunk highway fund. The Change Item states that “this will enable MnDOT to 1) spend additional projected federal funding due to the recently updated State Transportation Improvement Program

(STIP) in the amount of \$394,000,000 for FY 2026, \$60,000,000 for FY 2027, and \$65,000,000 in FY 2028 and later; and 2) spend \$12,000,000 in FY 2026, \$25,000,000 in FY 2027, and \$60,000,000 per year in FY 2028 and beyond for SRC from the projected trunk highway fund balance.”

The MnDOT Change Item, *Blatnik Bridge Spending Authority*, contains the Governor’s recommendation that the Legislature act by “providing MnDOT spending authority for \$650,000,000 in federal funds to replace the Blatnik Bridge, a key transportation hub connecting Duluth, Minnesota and Superior, Wisconsin.” Specifically, the proposal recommends “providing MnDOT the authority to spend \$497,447,000 in federal funds awarded to MnDOT as part of an Infrastructure for Rebuilding America (INFRA) grant. An additional \$152,553,000 in spending authority is recommended to ensure any discretionary grants awarded to Minnesota for this project can be spent.”

MMB reports that: “In January 2024, MnDOT was awarded nearly \$500,000,000 in a federal grant for their share of the replacement costs of the [Blatnik] bridge.” MMB indicates that “MnDOT is also seeking additional federal funds for the replacement costs, which are expected to total over \$1.8 billion but is split with Wisconsin. This request includes the authority to spend \$497,000,000 in federal funds *already received* and up to an additional approximately \$153,000,000 to secure additional competitive federal funds.” MMB further notes that “construction is expected to take place from 2026 through 2031.” The Governor recommends the spending authority be available through FY 2033, due to the complexity and size of the project.

**V. HIGHWAY PURPOSES: CERTAIN EXPENDITURES THE MINNESOTA SUPREME COURT HAS PREVIOUSLY DEEMED PROPERLY CHARGED TO THE TRUNK HIGHWAY FUND.**

First, expenditures from the THF may only be made for highway purposes. The Minnesota Supreme Court has reviewed certain state agency requests from the THF and acknowledged them

to be appropriate. Notably, the Minnesota Supreme Court said: “[c]ertain *executive agencies such as the state highway patrol* are properly incorporated with the highway department and the expense of their maintenance *properly charged to the highway fund.*” *Cory v. King*, 209 Minn. at 434, 296 N.W. at 508. (Emphasis added.)

Second, the Minnesota Supreme Court has also addressed in the affirmative the question of whether state departments rendering divided services (services related to highway matters as well as non-highway related services) may be proportionately reimbursed from the THF for expenditures reasonably attributable to highway matters. *Cory v. King*, 214 Minn. at 543, 8 N.W.2 at 618. When holding such reimbursements from the THF were proper, the court reasoned that “[t]he true test is whether the charge upon the highway fund accurately reflects highway expenses.” *Id.* The court concluded that: “[I]t is essential to validity of an appropriation from the highway fund that no more money be taken than is necessary to defray the expenses properly attributable to highway matters.” *Id.*

As indicated above, expenses “attributable to highway matters” can be reimbursed from the THF. *See id.* However, it is “essential” that “no more money be taken than is necessary to defray the expense properly attributable to highway matters.” *Id.* The Minnesota Legislature must have a reasonable basis for allocating the cost of expenses to be paid for from the THF. *See, e.g., id.* (concluding that “the legislature had before it necessary data to inform itself of the amount of expenditures reasonably attributable to highway matters.”). The Legislature therefore can only use THF monies to pay for all or part of funding requests if it decides that the requesting agency has provided the necessary information to reasonably determine the percentage of those costs that are “properly attributable to highway matters.” *Id.*

Finally, the Legislature will need to determine what, if any, MN.IT services costs “further

a highway purpose.” Minn. Stat. § 161.20, subd. 3; Minn. Stat. § 161.045, subd. 3(a)(7). In regard to the MN.IT products and services encompassed by the above-referenced Change Items, MMB previously reported in prior budget years that payments to MN.IT for these budget proposals is not in excess of actual costs incurred for trunk highway fund purposes because MN.IT either bills agencies by passing through the costs of the product or service directly, or charges the agency a break-even rate. Given that Minn. Stat. § 161.20, subd. 3 and Minn. Stat. § 161.045, subd. 3(a)(7), identify “payments to MN.IT Services in excess of actual costs incurred for trunk highway purposes” as an expenditure area that is reduced or eliminated for reimbursement from the THF, the Legislature can only use THF monies to pay for MN.IT Services if it has a reasonable basis to conclude that the amounts will be actually “incurred for trunk highway purposes.” *Id.*