

FILED

CASE NO. A17-1142

September 25, 2017

**OFFICE OF
APPELLATE COURTS**

**STATE OF MINNESOTA
IN SUPREME COURT**

The Ninetieth Minnesota State Senate and the Ninetieth Minnesota
State House of Representatives,

Respondents,

vs.

Mark B. Dayton, in his official capacity as Governor of the State of
Minnesota, and Myron Frans, in his official capacity as Commissioner of
the Minnesota Department of Management and Budget,

Appellants.

**APPELLANTS' AMENDED STATEMENT ON
CARRYOVER FUNDS**

In Paragraph 3 of its September 8, 2017 Order, this Court required the parties to submit a joint statement regarding the carryover funds available to the Minnesota House of Representatives (“House”) and the Minnesota State Senate (“Senate”). Specifically, the Court required information regarding: 1) the amount of carryover funds available to the House and Senate as of July 1, 2017 and September 1, 2017; 2) actual monthly expenses of the House and Senate from July 1, 2017 to September 1, 2017; 3) the anticipated expenses of the House and Senate from September 1, 2017 through January 31, 2018; and 4) the date by which carryover funds are anticipated to be exhausted. The parties were able to agree on questions (1) and (2), but after considerable effort were not able to agree on questions (3) and (4), for the reasons stated below.

After submitting Appellants’ original statement on September 18, 2017, Appellants learned that the Senate and House may intend to access additional funds held by the Legislative Coordinating Commission (“LCC”). The LCC has both carryover funds and appropriated funds for the 2018-2019 biennium. This Amended Statement identifies those LCC funds. (Exhibits omitted; new text underlined.)

1. The amount of carryover funds available to the House and Senate as of July 1, 2017 and September 1, 2017.

The amounts in the carryover accounts as of July 1, 2017 reflect unspent amounts from fiscal years prior to the 2017 fiscal year. The fiscal year ends June 30 and the financial books are reconciled and closed in August. As a result of this reconciling process, the September carryover account balance is higher as of September 1 than July 1, and includes amounts that were unspent from the House and Senate fiscal year 2017 appropriations.

Carryover funds available	July 1, 2017 Balance	Plus: Unspent Funds from FY17 Appropriation	Less: Expenses Paid During FY18 from Carryover Account	September 1, 2017 Balance
House	\$8,330,623.75	\$2,789,198.86	(\$438,384.47)	\$10,681,438.14
Senate	\$2,921,676.59	\$3,201,744.29	(\$119,094.94)	\$6,004,325.94

The LCC’s carryover funds are as follows:

<u>LCC carryover funds*</u>	<u>July 1, 2017 Balance</u>	<u>Plus: Unspent Funds from FY17 Appropriation</u>	<u>Less: Expenses Paid During FY18 from Carryover Account</u>	<u>September 1, 2017 Balance</u>
	<u>\$2,095,174.95</u>	<u>\$1,546,872.43</u>	<u>(\$1,090.47)</u>	<u>\$3,640,956.91</u>

2. Actual expenses of the House and Senate from July 1, 2017 to September 1, 2017.

These include some expenses that were incurred in FY17, but that were paid during FY18.

House	July 1 – 31	August 1 – 31	September 1
FY 18 Temp Injunction	\$1,023,118.59	\$2,728,907.76	\$756,843.91
Carryover	\$438,384.47		
FY17 Appropriation	\$977,068.19	\$36,064.96	
Total	\$2,438,571.25	\$2,764,972.72	\$756,843.91

Senate	July 1 - 31	August 1 – 31	September 1
FY18 Temp Injunction	\$1,309,661.86	\$3,109,289.40	\$423,795.31
Carryover	\$68,665.43	\$119,094.94	
FY17 Appropriation	\$1,142,388.12		
Total	\$2,520,715.41	\$3,228,384.34	\$423,795.31

* The use of LCC carryover funds is governed by Minn. Stat. § 16A.281.

3. Anticipated expenses from September 1, 2017 until January 31, 2018.

The Appellants have reviewed the estimates provided by the House and Senate of their monthly expenses. Appellants believe these estimates assume continued spending at the same levels as since July 1, 2017. But Appellants have determined that the actual spending in that period included substantial discretionary amounts that are not likely to be continued if the Senate and House were proceeding on carryover funds.

Exhibit A attached hereto shows House expenditures using the temporary injunction funds since July 1, 2017. Exhibit B attached hereto shows the House expenditures from the carryover and FY 2017 appropriation accounts since July 1, 2017. Exhibit C attached hereto shows Senate expenditures using the temporary injunction funds since July 1, 2017. Exhibit D attached hereto shows Senate expenditures from the carryover and FY 2017 appropriation accounts since July 1, 2017.

Based on the information from those Exhibits, Appellants believe that the monthly expense estimated by the Senate and House are overstated.

4. Anticipated date carryover funds will be exhausted.

Assuming the Senate and House spend at their estimated monthly rate, the Senate and House carryover funds would be exhausted on February 1, 2018 for the House and December 1, 2017 for the Senate. However, based on the discretionary spending identified in the attached Exhibits, Appellants believe that the monthly spending will be less than estimated and the date the carryover funds will be exhausted therefore will be later.

In addition to its carryover funds, the LCC received an appropriation for FY 2018 of \$17,511,000 and for FY 2019 of \$17,681,000. (Laws 2017 Spec. Sess. c. 4, art. 1 §2, subd. 4.) If the Senate and House use LCC funds, the date the Senate and House carryover funds and the LCC carryover and appropriated funds, will be exhausted will be well after the next legislative session begins on February 20, 2018.

Dated: September 25, 2017

Respectfully submitted,

BRIGGS AND MORGAN

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