

STATE OF MINNESOTA
OFFICE OF THE LEGISLATIVE AUDITOR
JAMES R. NOBLES, LEGISLATIVE AUDITOR

July 29, 1999

Members of the Legislative Audit Commission:

In late May and early June of this year, Governor Ventura made two trips out of the state to promote his book, *I Ain't Got Time to Bleed*. The first trip was to the Los Angeles area. The second trip included stops in New York, Washington, D.C., and Chicago.

The book's publisher, Villard Books, paid the travel expenses, but subsequently billed the state for expenses related to the three state troopers and one staff person who traveled with the Governor on the book tour trips. The bill from Villard Books includes the following expenses:

Los Angeles Trip (May 26-28, 1999)

Airline tickets (four people @ \$1,213.84 each)	\$4,855.36
Hotel rooms (four people, one night @ \$210.90 each)	\$ <u>843.60</u>
Subtotal	\$5,698.96

New York/Washington/Chicago Trip (June 1-4, 1999)

Airline tickets (four people @ \$1,400.78 each)	\$5,603.12
Hotel rooms (four people, three nights, @ room rates that ranged from \$445.40 to \$272.51 each)	\$4,102.53
Subtotal	\$9,705.65

Total	<u>15,404.61</u>
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In addition, the state will spend approximately \$500.00 to reimburse the state employees that traveled with the Governor for their meal and other travel expenses (a precise amount still cannot be calculated because some meal reimbursement requests have not been received). Therefore, if the state pays the full amount Villard has requested, the travel costs for the state employees who accompanied the Governor on his book tour will total approximately \$16,000.

In a letter dated June 2, 1999, the Attorney General's Office advised the Governor that it was legal for the state to pay the travel expenses. Specifically, the opinion said: "While facilitating the Governor's promotional book tour is not a public purpose, the protection of the Governor at all times is a valid public purpose.... It also appears that the expenses associated with the attendance of the Governor's staff person is an appropriate State expenditure."

After the Attorney General's opinion was released, Representative Molnau and others asked the Legislative Auditor's Office to also review the state-paid expenses associated with Governor Ventura's book tour and address the issues involved. We decided to conduct a "special review" of the book tour expenses for several reasons.

First, we do not think all discussion should end simply because the Attorney General said it was legal for the state to pay certain book tour expenses. There is more to "good government" than legalities. Moreover, in adding costs to state government by pursuing private business activities, Governor Ventura has raised important policy questions that need more consideration, particularly by the Legislature.

Second, the Legislative Auditor's Office has a responsibility to address concerns about the use of state money and resources. Minnesota Statutes 1998, Section 3.971, Subdivision 1, says in part that the Legislative Auditor shall "see that all provisions of law respecting the appropriate and economic use of public funds are complied with." This authority applies to money spent by the Governor's office, as well as to other offices or agencies of state government. In fact, the Legislative Auditor's Office audits the Governor's office every other year, and recently completed an audit of Governor Carlson's last two years in office.

Finally, because the book tour expenses are of current public and legislative concern, we decided to address the central issue involved now rather than wait until 2001, when we will conduct our next regularly scheduled audit of the Governor's Office. The 2001 audit will still be conducted. It will consider the complete range of questions that are part of a financial audit and will result in a full audit report. This letter, the result of a limited "special review" of the book tour expenses, essentially addresses one question: Who should pay the added costs the state incurs when the Governor is involved in private business activities, such as the book tour?

To conduct this review we obtained financial data from the Department of Public Safety and the Governor's Office. We interviewed two of the state troopers and the Governor's staff who traveled with the Governor on his book tour. We also tried to gain an understanding of Minnesota's past practices concerning governors' security and, to a limited degree, practices in other states.

After talking to officials responsible for the Governor's security, we accept that because of his high public visibility, Governor Ventura may require more security than previous Minnesota governors or governors from other states. We were repeatedly told by people who have traveled with the Governor that "he attracts a crowd everywhere he goes." Most former Minnesota governors and governors from other states could, undoubtedly, travel out of state to meetings, conferences, or on vacation and not be recognized.

We also accept the Attorney General's position that the state may legally pay to protect Governor Ventura twenty-four hours a day, seven days a week; in other words, even when the Governor is not "at work." That would normally include weekends, holidays, and vacations, when the Governor is likely to be involved in private activities. In addition, since the Governor retains his authority and responsibilities as Governor even when he is not "at work," we also accept that it may be appropriate in some situations for non-security staff to be with the Governor on weekends and vacations, even when "extra costs" are incurred.

We did, nevertheless, question several state employees (both security and non-security staff) who accompanied the Governor on the book tour about their activities on the tour. They assured us that they were only involved in activities that related to their state government responsibilities. They also showed us a memorandum prepared by the Governor's legal counsel that provided guidance on what activities staff could and could not participate in during the book tour. Since we have no way to independently verify what staff did on the book tour, we would only emphasize strongly that the only justification for any state employee to accompany the Governor is to carry out state functions and conduct state business, not to participate in or even to help facilitate the Governor's private activities. The Governor's staff told us that they agree with this position and, as noted, said they were careful during the book tour to only be involved in state government activities.

On the central question of who should pay the added costs incurred by the state for the book tour, we think the Governor or Villard Books should, but acknowledge there is no requirement for either of them to pay. We also acknowledge that we think there are reasonable arguments on both sides of the question. Nevertheless, we are troubled that the state has incurred added costs—and may incur significantly more costs over the next three and a half years—simply because Governor Ventura is involved in private business activities.

There is a strong tradition in Minnesota against state employees and officials using public resources for private gain. By law, state employees and officials are strictly forbidden from using state time or other resources to help them obtain private benefits. For example, Minnesota Statutes 43A.38, Subd. 4 (a) says that an employee of the state of Minnesota "shall not use or allow the use of state time, supplies or state-owned or leased property and equipment for the employee's private interests or any other use not in the interest of the state, except as provided by law."

Admittedly, the job of a Governor is different and significantly more complex than that of any other state official or employee. Being Governor involves a mixing of personal and official life, as manifest in the fact that the Governor lives with his family at a state-provided house—the Governor’s residence. At the residence, the Governor and his family live their personal lives and conduct official functions. But we think it is important to note that the state does not pay all of the costs at the residence; the state explicitly requires Governors to pay some costs. For example, the “First Family” is required to pay for the food they eat at non-state functions. And, at least one former Governor was criticized in an audit for allowing a member of his family to make personal long-distance telephone calls from the residence at state expense. In addition, the state has a strict policy that requires any added costs incurred by using the residence for non-state functions to be reimbursed, whether the “First Family” participated or not. During the past two years, the Governor’s residence was used for a high school dance, two wedding receptions, and nonpolitical fundraising activities, and the state was reimbursed approximately \$72,000 by various individuals.

In addition to being the only elected state official that is provided a residence, the Governor is also the only official for whom the state provides security protection on a regular basis. And, as we said before, there is no current legal basis to limit the costs the state might incur by protecting the Governor when he is not “at work.” Some people apparently think the limit would be the number of days the Governor has for vacation. But, like other elected officials, the Governor has no limit on his “vacation days.” He can be away from work as much or as little as he chooses.

Given there is no limit on the amount of time a Governor can be on vacation and given the range of activities Governor Ventura participates in when he is not “at work,” we think the Legislature should consider the need for a policy that would require reimbursement when the state incurs added costs from the Governor’s involvement in personal business activities. We make this recommendation not only because the Legislature has the authority to control how state money is used, but also because Governor Ventura’s private business activities present policy issues and concerns the state has not had to face in the past.

We will, of course, respect whatever decision the Legislature makes on this issue. In our opinion, however, it would be reasonable to distinguish between costs resulting from private business activities and other, non-business, weekend and vacation activities. Private weekend and vacation activities are an expected and normal, even necessary, part of a Governor’s life; private business activities are not. Moreover, by their very nature, private business activities—like the book tour—are designed to make money, and we think that makes it reasonable for those making the money to cover the added costs associated with the activity (principally, travel costs). We accept that there are fixed costs (principally, state employee compensation) that occur regardless of the Governor’s activities.

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We asked the Governor's office and the Commissioner of Public Safety, Charles Weaver, to review this letter in advance of its release and provide a response. Attached is a letter from Commissioner Weaver.

We hope that our review and Commissioner Weaver's response will facilitate a constructive consideration of the issues and the development of a more clear state policy.

Sincerely,

James Nobles
Legislative Auditor

Claudia Gudvangen, CPA
Deputy Legislative Auditor

Attachment

CC: Representative Molnau
Governor Ventura
Commissioner Weaver
Attorney General Hatch

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July 23, 1999

James R. Nobles, Legislative Auditor
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658 Cedar Street
St. Paul, MN 55155

Dear Mr. Nobles:

Thank you for the opportunity to respond to your letter reviewing the expenses associated with the Governor's recent book tour.

In your review, you acknowledge that no laws were broken.¹ As a result, this letter will focus on your conclusions and policy recommendations.

Frankly, I was surprised that your letter seemed to go well beyond a "special review" of the expenses incurred in connection with the book tour. Indeed, your letter seemed to focus more on policy considerations than on an examination of the facts. While you cite Minnesota Statutes Section 3.971, subdivision 1 as authority for your making policy recommendations, that statute merely gives you authority to ensure that "all provisions of law ... are complied with...." Nevertheless, I will attempt to address your concerns.

In responding to your letter, it is critical at the outset to separate questions of policy from the clear obligations of our agency. The Department of Public Safety is charged with ensuring the safety of the Governor and his family, as well as other elected officials. We take this obligation seriously. It is not discretionary and does not shift with the political winds. **Our policy has always been, and will continue to be, that we will afford the Governor, his family and elected officials the level of protection necessary to ensure their safety.**

The question of who pays for executive protection at certain venues is, as you point out, an appropriate consideration for the legislature, but is irrelevant as far as our agency is concerned. The fact is that Governor Ventura is a worldwide celebrity. As you acknowledge in your letter, Governor Ventura requires more security than any previous

¹ "There is no current legal basis to limit the costs the state might incur by protecting the Governor when he is not 'at work'". July 29, 1999 letter to Legislative Audit Commission, p.4.

Governor or governors from other states. He is our Governor 24 hours a day, seven days a week. Our obligation to protect him does not vary depending on the purpose for a particular appearance. I can assure you that anyone intent on doing him harm will be unconcerned with whether an event relates to his public or private business.

Simply put, the Governor's celebrity status results in both benefits and costs. He has ignited worldwide interest in Minnesota – a fact that will undoubtedly lead to economic and other benefits for our state. On the other hand, his high public profile has heightened concerns about his security. Unfortunately, we live in a violent world. The events during this past legislative session only confirmed that our elected officials face increased security risks.

As for the question of whether the legislature should, by statute, preclude state-paid security at private business activities, I respectfully suggest that to begin down that road would be unwise.

First, as you acknowledge in your letter, “[T]he job of a Governor is different and significantly more complex than that of any other state official or employee. Being Governor involves a mixing of personal and official life...”² The reality is that it may be difficult to distinguish between what might be considered a “private business activity” and other situations where security coverage has been historically accepted. For example, when a president or presidential candidate visits Minnesota (as George W. Bush did this week), our agency provides them with protection at no charge regardless of the purpose for their visit – including fundraising for political parties or their own campaign. Is that expenditure more “reasonable” than costs associated with an elected official's business activities? A bright line test will be difficult to achieve.

Second, if the legislature engages in a public debate and concludes that the Governor is not entitled to state-provided security at certain events, and those types of events are specifically described, it would be like sending an open invitation to any disturbed individual who may intend to harm the Governor or his family.

Finally, it is important to keep this debate in context. As a result of threats last year at the Capitol, security was heightened for both elected officials and the Governor. An ad hoc committee was created by the legislature following an assault and a bomb threat, and is currently considering how to improve security at the Capitol to ensure the safety of the public and elected officials. This debate can certainly be prolonged, but it seems to me that the legislature has already recognized our changing world and the need for heightened security measures for all elected officials.

² Legislative Audit Commission letter, p.4.

I would suggest that whether or not the state should pay for personal business costs is a question perhaps best left to the voters, rather than proscribed by statute. If voters conclude that an elected official has stepped over the line, then their ire will be reflected at the ballot box. The appropriate response to public policy questions is not always the passage of a new law – particularly where the issue is as sensitive and important as the personal safety of elected officials and their families.

In sum, because of his extraordinary public profile, Governor Ventura presents unique security challenges to which our agency will continue to respond – regardless of the purpose of certain appearances. If the legislature chooses to further debate this issue, I would be more than happy to testify as to our agency's perspective.

Best Regards,

Charlie Weaver
Commissioner of Public Safety