

Association of Minnesota Counties

Legislative Session Summary



2019



2019 Legislative Regular Session Overview	1
Environment & Natural Resources	2
General Government & Taxes.....	13
Health & Human Services.....	24
Public Safety & Corrections	31
Transportation & Infrastructure	37



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Minnesota Counties

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2019 Legislative Session Overview

The November 2018 election created sweeping changes to the Minnesota legislative landscape heading into 2019 session. Newly elected Gov. Tim Walz, a new DFL-controlled House, and a strengthened GOP majority in the Senate (after the special election of Republican Jason Rarick to fill a vacancy left by former senator and current DHS commissioner Tony Lourey) left Minnesota as the only state in the nation with a divided Legislature. These politics played out throughout session, as both the House and Senate appealed to their bases early, pushing forward unique and contrasting proposals. After returning post Easter/Passover recess, many around the Capitol were wondering how such differing legislation would ever be able to match up or allow for any grand “compromise” bargain. Adding to this confusion were a new set of expedited committee and budget deadlines that created even more frantic work in a session with the largest total bill introductions in the recent era. With one week to session’s close, it was clear that conference committee chairs were nowhere near finishing final omnibus bills, leaving a special session and possibly even government shutdown looming on the horizon.

With roughly 24 hours left in session, however, Gov. Walz, Majority Leader Gazelka, and House Speaker Melissa Hortman announced a broad-strokes budget agreement that outlined budget targets for each omnibus finance bill that cemented the standings of key session issues. While conference chairs were unable to meet session’s May 20 deadline, they continued working through the week until Gov. Walz called a one-day special session on May 24 to complete and vote on all budget bills. In lieu of the grand bargain, GOP leaders stood strong on no new transportation/gas taxes along with scrapping several controversial policy proposals for Paid Family and Medical Leave, energy renewal standards, and more. In return, Gov. Walz and Democrats were able hold on to a slightly diminished, but perpetual, provider tax (1.8% instead of 2%), while also gaining increased budget targets for almost every budget area along with state government agencies. While each political party was able to cite one—or more—frustrations over process, transparency, and content of the final omnibus bills, many commented that the session showed Minnesota had proved to the nation divided government could work and that compromise wasn’t entirely broken in the political process—this proven by mostly overwhelmingly bipartisan votes for each omnibus policy bill taken on both the House and Senate floor.

In all, counties fared extremely well this session winning major victories on many member-voted county priority issues, including provisions on Section 404 permitting, broadband infrastructure, children’s mental health, opioids response funding, continuation of the provider tax, appointment of county “row” officers, and increased County Program Aid (CPA) funding.

AMC Priority Items Scorecard 2019

+ **Success** +/- **Partial Success** - **Disappointment**

SECTION 404 ASSUMPTION

- + Funding included for the start of state assumption of 404 permitting process.

HEALTH CARE ACCESS FUND

- + Lawmakers agreed to repeal the sunset of the provider tax and decreased the rate from 2 percent to 1.8 percent starting in 2020.

OPIOIDS

- + A comprehensive bill that increases fees for drug makers and wholesalers and appropriates about \$8 million each year for county child welfare.

MENTAL HEALTH

- + \$7 million to help counties pay for services at children’s residential facilities.
- + Counties will have the option to appeal to DHS to dispute the cost of care for individuals discharged from state-operated facilities.

COUNTY PROGRAM AID INCREASE

- + \$26 million/year increase in FY 2021 increasing to \$30 million/year in FY 2022 and beyond. 1:1 funding ration with city LGA.

UNIFORM ROW OFFICER APPOINTMENT AUTHORITY

- + Statewide process for counties to appoint row officers if there is agreement with incumbent or a vacancy in office.

COMMUNITY SUPERVISION FUNDING

- No increase in community supervision funding for both CCA and CPO counties.

BROADBAND

- + \$40 million for the Border-to-Border Broadband Grant Program over the biennium.

TRANSPORTATION

- No increase in constitutionally dedicated transportation funding, and no bonding bill

Environment & Natural Resources

For additional information on this section, please contact Brian Martinson, Policy Analyst, at 651-789-4322 or bmartinson@mncounties.org.

This session was generally successful for AMC priorities and for objectives in the Environment and Natural Resources area. AMC had one identified priority under environment policy: 404 Assumption. We were successful in obtaining funding for the Board of Water and Soil Resources (BWSR) to continue their work with the Army Corp of Engineers on the application process. In addition to this, numerous platform items were pushed across the finish line. There were also a handful of proposals that conflicted with our AMC positions that we successfully stopped or were able to make positive material changes or amend.

Throughout session there was significant contrast between the governor, House, and Senate environment budget proposals. The ensuing budget agreement largely resulted in a maintenance of base funding with some targeted investments and modest increases in general fund spending.

Environment and Natural Resources: \$14.78 million over base.

- Governor and House proposal: \$32.5 million increase
- Senate proposal: \$57 million decrease

Agriculture, Housing, Rural Development: \$59.51 million over base.

- \$4.51 million agriculture, \$15 million housing, \$40 million broadband:
 - ▶ Governor and House proposal: \$103 million increase
 - ▶ Senate proposal: \$30 million increase

In addition to new legislation, each session revisits a fair number of proposals from the last, but this session saw more than usual due to the veto of the 2018 Omnibus Supplemental Finance Bill. As a result, readers may recognize quite a few of these provisions from last year. The objective of this summary is to provide a brief overview of county-related environment and natural resources topics that were discussed at the Legislature this session.

AMC PRIORITY: 404 ASSUMPTION

Assumption of Section 404 Waters Permitting ([SF 962/HF 1170](#))

AMC has supported Minnesota's efforts toward taking on implementation of the U.S. Army Corps of Engineers (Corps) Section 404 waters and wetlands dredge/fill regulatory program since 2015. An initial feasibility study found assumption conditions unfavorable due to limitations on the scope of a state-assumed program. However, after workgroup activity and a review by the federal agencies, the Corps released a memo at the end of 2018 which greatly expanded the amount of assumable waters making this a much more practicable option and would provide faster permit decisions, improved efficiency, and cost savings to applicants and local governments.

The bill was heard and included in the Senate Omnibus Environment and Natural Resources bill, but never considered in the House. AMC worked closely with our county partners to secure the necessary funding in final budget negotiations.

Status: Signed by the governor on May 28, 2019 ([Chapter 4](#)) MN Session Laws – 2019, 1st Special Session.

ANIMAL AGRICULTURE

Feedlot Officer Online Training Curriculum Development ([HF953/SF1535](#))

The Minnesota Association of County Feedlot Officers (MACFO) has been working to address a lack of relevant and timely training, which has contributed to high turnover among feedlot officers. This legislation provides a grant to MACFO to develop, in coordination with the PCA and the University of Minnesota Extension, an online training curriculum related to animal feedlot requirements. This provision was included in both the House and Senate Omnibus Finance Bills at \$150,000 and \$300,000 respectively. We were successful in getting the full request of \$300,000 included in the final budget bill.

Status: *Signed by the governor on May 28, 2019 ([Chapter 4](#)) MN Session Laws – 2019, 1st Special Session.*

Truck Washing Facilities Wastewater ([HF 820/SF 483](#))

This bill clarifies that the prohibition against the permitting of new open-air swine basins does not apply to storage basins used solely to hold wastewater from a truck washing facility. This bill was heard in both the House and Senate Agriculture Committee. It was included in the Omnibus Agriculture Policy bill and passed into law.

Status: *Signed by the governor on May 17, 2019 ([Chapter 38](#)).*

Farm Disaster Recovery Loan Program ([HF2093/SF225](#))

With the impacts of heavy snowfall taking its toll across the state, the Legislature acted to support local recovery efforts. Amendments to the Farm Disaster Recovery Loan Program added the weight of snow, sleet, or ice as conditions for which a farmer is eligible to participate in the program. As winter storms grew more frequent with heavy snowfall, structural failures began to hit family farms around the state. Those impacted can now access this loan program through the Rural Finance Authority.

Status: *Signed by the governor on March 18, 2019 ([Chapter 4](#)).*

County Feedlot Program Base Appropriation Increase ([HF2034/SF2317](#))

Base funding for the County Feedlot Program has not been increased since 2002 and has even been reduced twice over those same years. During this time, county level costs and responsibilities have increased. This year's bill increased the base appropriation for the County Feedlot Program from \$1.959 million per year to \$2.5 million per year. The bill received hearings in both the House Agriculture Policy and Finance Committee and Senate Environment and Natural Resources Finance Committee and was laid over for possible inclusion in the committees' omnibus bills. The funding was not included in either bill and did not pass.

Status: *Did not pass.*

Pasture Changes ([SS-SF1](#), Article 1, Sections 16-18)

Changes to the definition and treatment of pastures was added as an amendment to the Senate Omnibus Agriculture Finance Bill. These changes created a significant amount of ambiguity making regulatory compliance more difficult for all involved. In addition, the proposal referenced treatment of natural deposits and exemptions related to the proximity to public and private waters raising concerns about environmental safeguards inherent to the program. MACFO work with Department of Agriculture and Pollution Control Agency to make changes that lessen the possible negative outcomes and tie manure management plans for pastures to permitting operations.

Status: *Signed by the governor on May 28, 2019 ([Chapter 1](#)) MN Session Laws – 2019, 1st Special Session.*

BUFFERS & SOIL LOSS

Agricultural Riparian Buffer Credit ([HF 1430/SF 1937](#))

There were numerous buffer tax credit proposals presented to the Legislature this session. The governor proposed a \$50 per acre credit in his budget. There was also a bill ([HF 200/SF 459](#)) introduced to establish a compensation program for land owners who converted tillable farm land into riparian buffers following enactment of the buffer law in 2015. Eligible land owners would receive annual compensation equal to the average annual rental payment for the amount of land converted into a buffer. Although this bill received a hearing in the House, it had several complicating factors that prevented it from gaining traction in either body. It did not advance out of committee.

One of the more successful and popular proposals was HF 1430/SF 1937, a proposal that would provide a property tax credit for any ag land required to be maintained as a riparian buffer. This legislation was seen as more equitable and was promoted by commodity and ag groups. The credit is equal to the net tax capacity-based property taxes that are attributable to the portion of the property consisting of the buffer. Landowners would need to be in compliance with the buffer law to qualify for the credit. AMC, county auditors, and county assessors worked with the authors, Department of Revenue, and other stakeholders on this plan to ensure that any provision that moved forward was equitable as well as being reasonably manageable to implement. A lot of time and attention was put into reforming this proposal into a property tax exemption for these acres with a reimbursement back to the local government entities for lost revenue/tax shifts.

The proposal competed against the House Tax Committee's Ag Property School Bond Exemption for funding in the Tax Bill. In the final budget deal the Ag School Bond provision was included. The Buffer Tax provisions did not advance in either body of the Legislature but there will likely be continued efforts to promote this legislation next year.

Status: Did not pass.

Excessive Soil Loss Clarification ([SF 1551](#))

The 2015 Buffer Law deleted a portion of statute that provided local governments jurisdiction over soil erosion provisions and made them inapplicable unless a county or other local government unit affirmatively adopted them via an ordinance. SF 1551 would have reestablished this language clarifying counties' continued authority over soil loss. The bill would have also created a process for a landowner to submit a complaint to the county or watershed district and to BWSR when soil loss from the land of another affects the landowner's buffer or alternative practice causing them to be out of compliance with the Buffer Law.

This bill was heard in the Senate and intended to be included in the Omnibus Agriculture Policy bill. However, because the complaint process could lead to court intervention if the issue could not be resolved, the Judiciary Committee asked to review the bill but did not have time to do so this year.

Status: Did not pass.

LAND USE PLANNING AND REGULATION

Aggregate Mapping ([HF 2608/SF 2586](#))

HF 2608/SF 2586 funds statewide aggregate mapping and requires the state to provide aggregate mapping services to Minnesota counties, review a county's planning and zoning policies, and provide recommendations about incorporating aggregate resource planning into county ordinances. The bill language also mandates that the county incorporate this into their comprehensive plan. After working with the proponents, the county mandate was dropped. Funding for this work was included in the Environmental Trust Fund (LCCMR) bill with no statutory changes.

Status: Signed by the governor on May 28, 2019 ([Chapter 4](#)) MN Session Laws – 2019, 1st Special Session.

Aggregate Reclamation Guidance ([SS-SF7](#))

A provision in the Omnibus Environment and Natural Resources Finance Bill requires the DNR commissioner to update the Department of Natural Resources Aggregate Reclamation Handbook as recommended by the Aggregate Resources Task Force Final Report from January 2018. While there was no official bill on this topic this year, language was added as an amendment with the support of the DNR in a Senate committee hearing with \$100,000 for the department to do this work. The final bill includes the language but no funding.

Status: Signed by the governor on May 28, 2019 ([Chapter 4](#)) MN Session Laws – 2019, 1st Special Session.

Airport Zoning Requirements ([HF 2398/SF 2071](#) & [SS-HF6](#), Article 3, Sections 89-111)

This bill makes various changes to the law governing airport zoning for safety purposes and incompatible uses. One of the changes requires that municipalities and counties include airport zoning regulations in their comprehensive plan/ordinances, a duty which is permissive under current law. These provisions were part of the vetoed Omnibus Supplemental Finance Bill of 2018. The proposed language was consistent with the work of all stakeholders, including the Minnesota Association of County Planning and Zoning Administrators (MACPZA). The bill language was included in the Special Session Omnibus Transportation bill that was passed.

Status: Signed by the governor on May 28, 2019 ([Chapter 3](#)) MN Session Laws – 2019, 1st Special Session.

County Geological Atlases ([HF 2032/SF 2201](#) & [SS-SF7](#), Article , Sections)

The County Geological Atlas Part A (geological), Part B (groundwater) is an important tool for government entities, business and industry, and private citizens. When completed, these maps help local governments make better land use, project/resource management, and planning decisions. Currently, only 26 counties have access to a completed County Geological Atlas (Part A and Part B). Funding through LCCMR appropriations had been severely cut in the last session and were again on the chopping block this year. AMC supported DNR efforts to continue this work and full funding recommendations (\$4.4 million) were restored in the final bill.

Status: Signed by the governor on May 28, 2019 ([Chapter 4](#)) MN Session Laws – 2019, 1st Special Session.

Coordinated Watershed Management ([HF 875](#), [SF 1063](#))

HF 875/SF 1063 will provide technical improvements to the Clean Water Legacy Act and local water management programs to achieve coordinated watershed management changes. It is designed to increase the pace of progress, assure accountability, provide flexibility, and support local action. This bill also includes language that would allow the Natural Resources Block Grant (NRBG) to be considered payments instead of grants, thereby reducing reporting requirements.

This language modifies provisions of the federal clean water act implementation and the state wetland protection act, eliminates the need for state water planning to address impaired waters where a local water plan is in place and already meets the standards. It also aligns funding sources for local water efforts.

AMC joined the Minnesota Association of Watershed Districts, Soil and Water Conservation Districts, and BWSR in supporting legislation that modifies the Clean Water Legacy Act and supports coordinated watershed management. In both the House and Senate meetings, questions were raised about language changes that expand funding access beyond performance-based grants. The bill is intended to help direct other forms of direct funding to local entities for clean water work.

Status: Signed by the governor on May 28, 2019 ([Chapter 4](#)) MN Session Laws – 2019, 1st Special Session.

Silica Sand Model Ordinance ([HF 1886](#), [SF 1990](#))

Current law requires the DNR to create rules regulating silica sand even though the Department does not have the rulemaking authority required to create and publish a model ordinance. This law will provide interested counties with guidance and direction but not interfere in county regulatory authority.

Status: Signed by the governor on May 28, 2019 ([Chapter 4](#)) MN Session Laws – 2019, 1st Special Session.

Natural Resources Block Grant (NRGB) ([SS-SF7](#), Article 1, Section 4)

The Omnibus Environment and Natural Resources bill provided base funding (\$3,423,000/year) for Natural Resources Block Grants to local governments. The rider language for this appropriation removed reference to a local match requirement. This section also carried policy language exempting these grants from Department of Administration, Office of Grants Management Policy 08-08 Grant Payments and 08-10 Grant Monitoring.

Status: Signed by the governor on May 28, 2019 ([Chapter 4](#)) MN Session Laws – 2019, 1st Special Session.

Modular Homes ([HF 282](#)/[SF 239](#))

This bill allows modular homes to be placed in manufactured home parks, and grants modular homes installed in manufactured home parks the same legal rights, obligations, duties, and tax treatment as manufactured homes. Zoning requirements pursuant to chapters 394 and 462 still apply.

Status: Signed by the governor on May 28, 2019 ([Chapter 1](#)) MN Session Laws – 2019, 1st Special Session.

Sewage Septic Tank Truck Weight Limits ([HF 2499](#)/[SF 144](#))

A proposal that would allow increased weight limits for sewage septic tank trucks and exempt them from permitting requirements was considered this session but ultimately not agreed to in the Transportation Omnibus bill conference committee.

Status: Did not pass.

Zoning Authorities in the Mississippi Headwaters ([HF 758](#)/[SF 16](#))

This bill clarifies that all zoning authorities are subject to the Mississippi Headwaters Board certification requirement with respect to certain land use actions in the area covered by the board's comprehensive land use plan. The language was incorporated in the Omnibus Environment and Natural Resources Finance bill.

Status: Signed by the governor on May 28, 2019 ([Chapter 4](#)) MN Session Laws – 2019, 1st Special Session.

DRAINAGE

Drainage Work Group Recommendations ([HF 1244](#)/[SF 1945](#))

The 2019 Drainage Work Group (DWG) bill was an ongoing and refined version of the 2018 bill that stalled in the Legislature last year. The 2019 proposals offered changes to the agricultural best management practices (AgBMP) loan program to help drainage authorities finance ditch buffer easements and created an option for drainage authorities to use technology to assess benefits more accurately. For repairs, costs would be apportioned to all lands contributing to runoff and sediment delivery.

In 2017 the Legislature asked the DWG to evaluate and make recommendations to accelerate drainage system acquisition and establishment of ditch buffer strips. The key provisions for county drainage authorities include: any modifications to the AgBMP loan program, clarification that a drainage authority may use an outside attorney, and allowing more than 26 percent of the landowners in a public ditch system to petition for a redetermination of benefits and damages—while still allowing the drainage authority to retain their discretion to conduct the redetermination.

The other component of the bill would allow drainage authorities to use a relative sediment delivery method for repair cost apportionment. This method only applies to drainage system repairs and includes applicable due process hearings, findings, orders, and appeal provisions. This is an optional approach for drainage authorities for more equitable drainage system repair cost apportionment and can be updated readily with less cost to assessed landowners and provide incentive to reduce runoff and sediment contributed to the drainage system.

The Drainage Work Group bill passed with strong bipartisan support in both bodies.

Status: Signed by the governor on May 15, 2019 ([Chapter 24](#)).

FORESTRY

Forestry and Bioeconomy Research ([HF 838/SF 1067](#))

HF 838/SF 1067 requested \$2.2 million for the University of Minnesota for academic and applied research through MnDRIVE at the Natural Resources Research Institute to develop and demonstrate technologies that enhance the long-term health of Minnesota's forests, extend the viability of current forest-based industries, and accelerate emerging industry opportunities. Of this amount, \$500,000 is to support development of a forest optimization tool for Minnesota forest resources, \$800,000 is for maintenance and expansion of the Natural Resource Atlas to statewide coverage, \$400,000 is to the Minnesota Forest Resource Council for continued advancement of biochar development and application to forest health, and \$500,000 is to advance emerging Minnesota technologies to produce clean syngas to drive high-value markets for forest biomass feedstocks.

Status: Signed by the governor on May 28, 2019 ([Chapter 4](#)) MN Session Laws – 2019, 1st Special Session.

Forest Management Investment Account (FMIA)

The Forest Management Investment Account (FMIA) supports DNR management of Minnesota's forests so that they support wildlife, sustain biodiversity, and provide a reliable source of wood for our state's forest products industry. The Omnibus Environment and Natural Resources Budget bill included a \$2 million increase from FMIA over current funding levels. These proposed increases will support the agency in meeting the new sustainable timber harvest level.

Status: Signed by the governor on May 28, 2019 ([Chapter 4](#)) MN Session Laws – 2019, 1st Special Session.

PLANT AND ANIMAL SPECIES MANAGEMENT

Chronic Wasting Disease (CWD)

Chronic Wasting Disease (CWD) continues to be a concern for both free range and farmed animals. Early this year the DNR released an updated [Deer Management Plan](#) to deal with this evolving concern and proposed increased efforts in the budget bill. This session, more than 20 bicameral bills were introduced addressing aspects of the CWD issue. These bills added fencing requirements for farmed cervid facilities, established a moratorium on white-tailed deer possession, required herd depopulation when an animal tests positive for CWD, invested in testing and disease research, and increased deer management resources.

Final negotiations led to policy and funding for this effort being consolidated into the Omnibus Environment and Natural Resources Budget bill. In summary, the agreement includes the following:

- The Board of Animal Health and the Minnesota Department of Natural Resources will receive more funding for disease management.
- The University of Minnesota will research developing a better diagnostic test. Current tests for CWD are time-consuming, expensive, and can't be performed on live animals.
- Establishing an Adopt-a-Dumpster program will help hunters dispose of carcasses safely.

- Deer farms must have two fences to prevent contact between farmed animals and wild ones. They need to keep these fences in good condition and make repairs promptly.
- Captive deer must have identification.
- All deer farms must be inspected once a year. Inspectors will check fences and the condition of each animal. Deer farms will also need to pay more in annual fees.
- Captive deer that die must be tested for CWD. If the test results are positive, the farm will be depopulated. Since the prions that spread the disease can remain in the soil for years, deer farms must maintain their fences and post biohazard signs for five years after CWD is detected.

Status: Signed by the governor on May 28, 2019 ([Chapter 4](#)) MN Session Laws – 2019, 1st Special Session.

Threatened and Endangered Species ([HF 1713/SF 1986](#))

AMC, DNR, MnDOT and the MN County Engineers Association all advocated for clarification of the current exemption for mitigation of threatened and endangered species on existing public road right of way. All associations supported including a statutory definition to better explain what is included in the exemption and to save time and taxpayer dollars on existing road construction and maintenance projects.

Status: Signed by the governor on May 28, 2019 ([Chapter 4](#)) MN Session Laws – 2019, 1st Special Session.

Noxious Weed local grants ([HF 2237/SF 1449](#))

Local efforts led the way in the detection and eradication noxious weeds. This work is even more critical with the emergence of Palmer Amaranth in Minnesota. AMC successfully worked with stakeholders to support funding (\$1 million) for grants to local communities as an essential component for combatting infestations.

Status: Signed by the governor on May 28, 2019 ([Chapter 4](#)) MN Session Laws – 2019, 1st Special Session.

Emerald Ash Borer Response

Emerald Ash Borer continues to spread across the state with 18 counties currently under quarantine. There were a number of bills introduced requesting more aggressive funding (up to \$13 million) to deal with Emerald Ash Borer through treatment, removal, waste, and replacement. The Environmental and Natural Resources Budget bill passed in special session included \$700,000 from the general fund and \$300,000 from the Environment and Natural Resources Trust fund for grants to local governments.

Status: Signed by the governor on May 28, 2019 ([Chapter 4](#)) MN Session Laws – 2019, 1st Special Session.

Beaver Control ([HF 1656/SF 2096](#))

Beaver control provisions included in HF 1656/SF 2096 will allow landowners and local governments to more easily address the removal of beaver dams and nuisance beavers by positively changing permitting and tagging requirements for these purposes. Several adjustments were made to the proposal in conference committee including a requirement that the local unit of government supply contract trappers with government entity tags and allow the entity or its agent to retain the beaver carcass.

Status: Signed by the governor on May 28, 2019 ([Chapter 4](#)) MN Session Laws – 2019, 1st Special Session.

AIS Control by Commercial Fishers

A provision in the Omnibus Environment and Natural Resources bill ensures that commercial fishing operator assignments do not interfere with contracts for invasive species control.

Status: Signed by the governor on May 28, 2019 ([Chapter 4](#)) MN Session Laws – 2019, 1st Special Session.

SOIL AND WATER CONSERVATION DISTRICTS

Soil and Water Conservation District Funding ([HF 1624/SF 1712](#))

Funding for Soil and Water Conservation Districts (SWCDs) was a hot topic throughout the session. The \$11 million per year appropriation from the Clean Water Fund was not scheduled to continue and nothing was set to replace it. The MN Association of Soil and Water Conservation Districts brought two proposals to the table; Levy and Fee Authority ([HF 1284/SF 1443](#)) and a general fund appropriation requesting \$14 million/year in ongoing base funding.

Each body of the Legislature took a different approach. The Senate decided to once again adjust Clean Water Funds to accommodate \$24 million over the next two years. The House proposed some general fund spending and a brand new, yet controversial, proposal that raised new funds through increases to the Solid Waste Management Tax. Throughout the process AMC supported and testified on behalf of state investment and opposed new local tax proposals. The work of SWCDs has been and should be a state and local partnership. A shift to reliance on more local tax dollars to do this work turns it into a local partnership on a matter of importance beyond local jurisdictions. In the end, legislative leaders and the governor decided to use \$24 million in clean water funding for another two years.

Status: Signed by the governor on May 28, 2019 ([Chapter 2](#)) MN Session Laws – 2019, 1st Special Session.

SOLID WASTE MANAGEMENT

Solid Waste Reduction Funding

The desire to achieve waste reduction goals are being challenged by world recycling markets with the lack of investment in developing a domestic market leading to the stockpiling and forced landfilling of recyclable materials. Through numerous funding and policy proposals this session, more attention was brought to this issue. Although an AMC proposal to shift more of the Solid Waste Management Taxes to waste reduction activities did not move forward, some new base funding was included in the Omnibus Environment and Natural Resources budget bill for these purposes: SCORE Grants increase (\$1 million), Recycling Market Development (\$800,000), and Food Waste Grant Program (\$1.5 million).

Status: Signed by the governor on May 28, 2019 ([Chapter 4](#)) MN Session Laws – 2019, 1st Special Session.

Waste to Energy Loss of Renewable Energy Credit ([HF 700/SF 850](#))

HF 700/SF 850 was part of an energy package for Minnesota to reach a goal of 100% carbon free energy. One of the more controversial provisions of the proposal would have eliminated the renewable energy credit for waste to energy facilities. Communities that have invested in waste to energy would be hit hard by this provision, and Minnesotans would have lost the environmental benefits of diverting this waste from landfills. AMC and SWAA partnered with other waste management organizations to tell this story. Though many of the provisions in this bill ended up moving forward in the House Energy bill, this provision did not advance out of the committee.

Status: Did not pass.

Capital Assistance Program ([HF 1219/SF 666](#))

This bill amends the application requirements for the MPCA Capital Assistance Program (CAP) which is a program funded with state bonding dollars and requires a local match. Counties and other local units of government utilize this program as a tool to help fund needed solid waste infrastructure projects. The bill language requires the examination of capacity at existing facilities and the potential displacement of existing facilities prior to application for the program.

AMC and SWAA worked with the bill authors last session to make the language less burdensome for counties, but it was vetoed as part of the Omnibus Supplemental Finance bill. Proponents for the change shepherded the compromise language back through the Legislature this session, and counties remained neutral.

Status: Signed by the governor on May 28, 2019 ([Chapter 4](#)) MN Session Laws – 2019, 1st Special Session.

Anoka County Landfill Site ([HF 80/SF 1839](#))

The need to address clean-up work at the Anoka County Landfill was one of many holdovers from last session. While the project had been funded in the 2018 bonding bill, that funding was struck down in court because the bonds were financed using the Environment and Natural Resources Trust Fund. Some parties proposed using Closed Landfill Investment Fund for this cleanup, which is outside of typical practice and was seen as controversial. An agreement was reached to repass clean-up of the Anoka landfill and the water infrastructure projects with traditional general obligation bonds.

Status: Signed by the governor on March 5, 2019 ([Chapter 2](#)).

Solid Waste Management Taxes to SCORE Grants ([HF 1215/SF 1227](#))

There has been an ongoing effort to recapture the 30% of the Solid Waste Management Tax (SWMT) that is being diverted to the general fund. HF 1215/SF 1227 would have increased the proportion of SWMT revenues deposited in the environmental fund to 75% in fiscal years 2020 and 2021, 80% in 2022 and 2023, and 100% thereafter. The bill also provided that these dollars must be distributed to counties as part of their SCORE grants. While counties received positive reactions to the proposal, limited funding for this budget division did not leave enough resources to address this issue.

Status: Did not pass.

Solid Waste Management Tax increase ([HF 2209](#))

There was a proposal added to the House Environment and Natural Resources Budget bill that would have increased all Solid Waste Management Taxes (SWMT) to funding a broad range of initiatives. Some of this increase would have targeted SCORE grants, recycling grants, as well as food waste reduction and wood waste for biomass energy. The proposal would continue to divert 30% of these revenues to the general fund to be used for other purposes. While counties appreciated the recognition of the need for additional waste reduction funding, there are already significant funds being collected for this purpose through the SWMT that should be directed as such. This language was not considered in the Senate and did not move forward in conference committee.

Status: Did not pass.

Opt-Out of Disposal Facility Designation ([HF 2461/SF 2350](#))

This legislation would allow cities within five miles of the county border that would have to haul to the designated facility to opt out of the county waste designation ordinance, thus undermining county authority and waste planning structures. AMC worked with several concerned counties to communicate our position with the bill author, who then decided not to move forward with the legislation.

Status: Did not pass.

CLIF Expenditures ([HF 2076/SF 2109](#))

Legislators have questioned whether state statute allows the MPCA to expend funds from the Closed Landfill Investment Fund without legislative approval. Currently, the PCA commissioner has authority to begin using those dollars in accordance with the program requirements starting in 2020. The Senate wanted the law amended to require legislative action before any expenditures could be made from the fund. The House amended this proposal to clarify current authority as a statutory appropriation. AMC and SWAA shared some questions about the impacts as well as the potential loss of efficiency and flexibility if the Senate position prevailed. There was no agreement reached on this matter and no changes to current law were made.

Status: Did not pass.

Carpet Product Stewardship Program ([HF 2267/SF 2300](#))

HF 2267/SF 2300 would require carpet manufacturers selling their product in Minnesota to organize, implement, and finance a program to collect and recycle used carpet. Carpet manufacturers would need to submit a plan to the Pollution Control Agency before March 20, 2021, that contains the following:

- Certification that all discarded carpet, regardless of manufacturer, will be collected;
- A description of how, without the imposition of any end-of-life fees, the collection, transportation, and recycling processes will operate;
- A proposed stewardship assessment to be placed on all carpet sold in the state, reviewed by an independent auditor, to pay for the costs of the program;
- Five-year performance goals and estimates of the proportion of discarded carpet that will be recycled each year; and
- Carpet design changes that may reduce its toxicity, reduce water and energy used to manufacture carpet, and ways to increase carpet's recyclability.

The law would also require that no carpet be sold in the state after July 1, 2021, unless its producer is participating in an approved stewardship plan. Carpet manufacturers would need to add the stewardship assessment to the cost of carpet sold to distributors and retailers of carpet sold in the state. Carpet producers would also need to report annually to the agency regarding the operation of the program. This legislation was included in the House Environment and Natural Resources Budget bill but was not heard in the Senate.

Status: Did not pass.

Restoration of the Closed Landfill Investment Fund ([HF1564/SF1830](#))

During past budget deficits the Legislature has, on occasion, borrowed money from the Closed Landfill Investment Fund. HF 1564/SF 1830 would transfer \$43,619,000 from the general fund to the closed landfill investment fund to compensate the fund for the fiscal year 2016, 2017, and 2018 repayments. This bill did not move forward this session.

Status: Did not pass.

Restoration of the Metropolitan Landfill Contingency Action Trust ([HF1709/SF2144](#))

During past budget deficits the Legislature has borrowed money from the Metropolitan Landfill Contingency Action Trust. This legislation would have transferred \$13,905,000 from the general fund to the trust account to restore the money transferred from the account. A scaled back appropriation for this purpose was included in the House budget bill, but it did not pass out of the conference committee.

Status: Did not pass.

WETLANDS

Local Road Wetland Replacement Program ([HF2330/SF2438](#))

Substantial, immediate funding is needed to maintain the availability of wetland credits for local government road projects to avoid program closures in certain areas of the state. Counties have been advocating for more stable funding through the general fund and introduced legislation for a \$10 million investment in the program. When it became clear this route was not gaining traction, counties shifted attention to securing bonding dollars—which has been a solution in the past—and found support from both bonding committee chairs. When the governor, Majority Leader, and Speaker of the House agreed to a small bonding bill during special session, counties were hopeful the money would be included. Unfortunately, the bonding bill required votes from the minority parties and without their support in place, the bill never materialized. BWSR is looking at alternatives to address this issue.

Status: Did not pass.

Wetland Replacement ([HF2209/SF2314](#))

This language would allow BWSR to complete planning frameworks and other application requirements for an in-lieu fee program for wetland replacement. This program was part of the vetoed Omnibus Supplemental Finance bill last session.

Status: Signed by the governor on May 28, 2019 ([Chapter 4](#)) MN Session Laws – 2019, 1st Special Session.

General Government & Taxes

For additional information on this section, please contact Matt Hilgart, Government Relations Manager, at 651-789-4343, or mhilgart@mncounties.org

A divided Legislature created a unique, and at times daunting, legislative landscape to move county priorities forward, meaning bipartisan relationships were key this year more than ever to find success. AMC finished the 2019 session with several victories, including substantial gains in increased County Program Aid (CPA) as well as a historic change in county governance by providing for a new collaborative and transparent process for the appointment of county row officers (auditor, treasurer, and recorder).

Prior to session, AMC teamed up with the League of Minnesota Cities to develop a strategy that echoed Gov. Walz's calls for "community prosperity" by advocating for increased investment in County Program Aid (CPA) and Local Government Aid (LGA). Early in session, both organizations worked together to develop and introduce a bill that would get cities and counties back to historic funding levels (2001/2002) by investing an equal \$30.5 million annually. AMC worked alongside bipartisan authors in both chambers to spread the word on the important role CPA has in investing in local communities, providing mandate relief, and reducing levies. From Lac qui Parle and Stevens counties to Hennepin and Dakota counties, AMC presented a united front and message that CPA equals property tax relief. With support from House Tax Chair Paul Marquart, Gov. Walz, and many in the Senate – including former Redwood County Commissioner and current Senate Commerce Chair Gary Dahms – counties received a historic \$26 million in new CPA (increasing to \$30 million/year in FY 2022 and out) and were kept as equals to cities in a 1:1 funding ratio.

In equally exciting news, after over a decade's worth of work by legislators, commissioners, county professionals, and former staff, AMC is proud to report that the statewide uniform county row officer appointment bill made it through the Special Session and was signed into law by the governor. The language included in the State Government Finance Omnibus bill—a compromise and partnership with the Minnesota Association of County Officers (MACO)—will provide a statewide process for the appointment of auditor/treasurer/recorder positions that includes transparency, local control, and public input.

Aside from these priority achievements, AMC also worked with legislators to bring more attention to the state assessment of utilities and weighed in on substantial policy discussions surrounding differential pay, presidential primary, Paid Family and Medical Leave, and more.

TAXES

Omnibus Tax Bill/Federal Tax Conformity

A degree of familiarity was bestowed upon House and Senate Tax Chairs, Paul Marquart and Roger Chamberlain, whereby they entered the 2019 session with several carryover provisions/ideas from last year's vetoed tax bill and a quest to see if 2019 was the year Minnesota would finally respond to the 2017 federal Tax Cuts and Jobs Act (TCJA). New to the fold were a DFL controlled house and a newly elected governor who had pledged significant spending increases in transportation, education, and "community well-being"—Gov. Walz's headline for LGA and CPA. Both chambers spent much of the first two months listening to overviews of Minnesota's tax system, learning how federal conformity affects Minnesota's revenues/taxpayers, and hearing a plethora of policy proposals. By mid-April, both chairs had released their omnibus tax proposals.

While there were several areas of agreement (particularly surrounding the mechanics of tax conformity), stark differences remained about how much revenue to bring in with conformity and where to spend that money—the Senate prioritizing business and individual income tax cuts, and the House increasing substantially more federal conformity collections and spending them in the areas of working family tax credit, homeowners/renter’s credit increases, and historic investments in local government aid (both cities and counties). A late session budget agreement laid out a total tax target of “\$0”, meaning the conference committee agreement had to be budget neutral. In the end, Chairs Chamberlain and Marquart produced a 300+ page tax agreement which took in nearly \$800 million in federal conformity and spent an equal amount in individual, business, and property tax relief.

Counties fared extremely well in the final tax agreement, signed into law by Gov. Walz on May 30, 2019, with the inclusion of Rep. Marquart’s joint CPA/LGA funding bill and no cuts in any other major aid categories.

Tax bill summary:

- **County Program Aid increases:** \$26 million starting in FY 2021 (pay July 2020) and \$30 million/year thereafter.
- **Federal tax conformity measures:** Moves the state from Federal Taxable Income to Federally Adjusted Gross Income (FAGI), expands section 179 (but only allows 20% bonus depreciation in the year made), aligns state standard deduction to that of the federal level and mirrors TCJA’s allowance for up to \$10,000 in SALT deduction, and more.
- **Income tax rate reduction:** Reduces the 2nd tier individual income tax rate from 7.05% to 6.80%. This is the first substantive change/reduction to individual income tax rates in over two decades.
- **Working Family Credit increase:** Expands the Working Family Credit for taxpayers with 0, 1, and 2 children and adds an additional tier for taxpayers with 3 or more children.
- **Health Care Provider Tax:** Deletes the sunset of the health care provider tax and sets the new tax rate (effective December 31, 2019) to 1.8% instead of the former rate of 2% (*learn more in Health and Human Services Section*).
- **Reduction of the Statewide Business/C-I Tax:** Reduces the statewide general property tax levy by \$47.5 million for commercial-industrial property and \$2.5 million for seasonal-recreational property.
- **Agricultural School Bond Credit Increase:** Increases the school building bond agricultural credit from 40% to 70% of the tax on the property (*all property classified as agricultural excluding house, garage, and 1 acre) attributable to school district bond levies. Phased in over 4 years.
- **No changes (+/-) to ICWA, PILT, AIS or buffer aids.**
- **Disabled Veterans Market Value Exclusion—Data sharing provision:** MAAO/AMC provision that will expedite the administration of the Disabled Veterans Market Value Exclusion by allowing CVSOs to share certain data with county assessors during application process.
- **Disabled Veterans Market Value Exclusion—Spousal limit deletion:** Eliminates the 8-year spousal limitation for 100% permanent and total disability and moves the application deadline for the exclusion from July 1st to December 15th. While completely supportive of the benefit, AMC has traditionally expressed concerns with any expansion under the exclusion model because of the tax shift effect—in 2018, the total exclusion represented more than a \$2.5 billion tax shift. This year, AMC worked with legislators to be supportive of the removal of the spousal limitation with reassurances from legislators and interest groups that no further changes would be incorporated. AMC continue working with MAAO to educate legislators on the benefits of moving the benefit to a credit-based system so that communities who are home to many disabled veterans and families are not disproportionately affected.
- **Ag Homestead changes:** modifies current homestead statute to expand the scope of qualifying trust property.

- **Fractional homestead changes:** MAAO/AMC language requiring assessors to use percent of deeded interest to calculate fractional homestead rather than fractional ownership. Changes are only required if the assessor has the data necessary for calculation and only apply to ag properties.
- **Expedited utility property tax certification:** Requires the Minnesota Department of Revenue (DOR) to certify recommended assessment values for state assessed property by July 15th instead of August 1st to provide local governments more time to plan budget prior to preliminary levy setting.
- **County agricultural society sales tax exemption**
- **Drainage lien interest rates:** Increases the maximum interest rate counties can charge on drainage lien principals to 6%.
- **County specific measures:**
 - Dakota County SMART center sales tax exemption
 - Lake County local lodging tax authorization
 - Beltrami County appropriation: \$3 million for out-of-home-placement costs for FY 2020.
 - Wadena County appropriation: \$600,000/year for costs related to human services for FYs 2020-21.
 - Mahnomen County appropriation: \$500,000 to Mahnomen County of which half of the appropriation must be used for the Mahnomen Health Center and the other half to the White Earth Band of Ojibwe.
 - Otter Tail County appropriation: \$500,000 to Otter Tail County for debt service on a joint DHS-county building.
 - Wabasha County tax abatement aid: \$2,400 to Wabasha County to be used for property tax abatements incurred by the 2018 Mazeppa fire.

Status: Signed by the governor on May 30, 2019 ([Chapter 6](#)) MN Session Laws – 2019, 1st Special Session.

Casino Aid Formula Revision ([HF 2406/SF 2124](#))

AMC continued work with Cass and Pine Counties on efforts to increase the percentage of state tribal casino aid derived from casino sales tax. Current casino sales tax allocations are disbursed 50% tribe, 40% state, 10% county. HF 2406/SF 2124 would have kept the tribal share at 50% but changed the state's portion from 40% to 30% while increasing the county share from 10% to 20%. The proposal was introduced and heard in both the Senate and the House where Pine County Commissioner Josh Mohr and Cass County Commissioner Neal Gaalswyk testified in support of the provisions. The bill carried a fiscal note of \$1.3 million.

Status: Did not pass.

Indian Child Welfare Act Aid Increase ([SF 1105/HF 1529](#))

A St. Louis County and AMC initiative to increase the statutory funding to Indian Child Welfare Act (ICWA) aid was not included in the final tax bill—although the Senate put a placeholder amount of \$2 million in their initial tax bill proposal. The original ICWA aid category—created as part of the 2017 omnibus tax bill—provided \$5 million in aid to counties and tribes for out of home placement costs associated with the Indian Child Welfare Act. SF 1105 would have required the Commissioner of DHS to reimburse 100% of a county's nonfederal share of the costs for ICWA placements, roughly \$15 million/year starting in FY 2021. While the Legislature failed to increase the aid appropriation, they did provide Beltrami County a one-time aid of \$3 million to alleviate extreme financial pressures. AMC will continue to work with counties and legislative leaders to move this provision forward.

Status: Did not pass.

Payment in Lieu of Taxes (PILT) sustainability ([SF 1106](#)/[HF 1528](#))

An AMC priority to increase the PILT rate for county-administered PILT lands was heard in the Senate Tax committee this year but not included in any final legislation. PILT serves a vital resource for counties with large amounts of state and federally-owned land. While a certain subset of PILT payments have received increases in funding, two important PILT categories (DNR-administered and county-administered) have remained stagnant, not keeping up with inflation or properly reimbursing local governments for lost tax base. In addition, a recently mandated re-assessment of acquired acres land values caused dramatic swings in PILT appropriations. SF 1106 would have kept the counties who lost PILT money based on the recent reassessment harmless and required future assessments to be done once every four years instead of six—costing the state roughly \$1.24 million/year. The bill was not included in the Omnibus Tax bill or heard in the House.

Status: Did not pass.

Buffer Credit/Exemption ([HF 1430](#)/[SF 1937](#))

A bipartisan proposal to create a new buffer credit program to compensate landowners for land put into buffers due to a 2016 law change was not included in any Omnibus Tax bill proposal despite support by the governor. HF 1430/SF 1937 would have created a new property tax credit equal to the tax paid on agricultural land (2a and 2b) put into buffers—both prior to the buffer law and post buffer law enactment. AMC worked with the Minnesota Association of Assessing Officers (MAAO), Minnesota Association of County Officers (MACO), Board of Water and Soil Resources (BWSR), and Minnesota Department of Revenue (DOR) to amend the proposal to change the credit to an easier-to-administer property tax exemption. The county proposal would have also created a new aid—based on a smaller scope of the buffer aid formula—to assist counties in any GIS/technology/staffing needs for the administration of the exemption. While the proposal was not included in any final legislation, AMC will continue to keep an eye on opportunities for its advancement in future years. *Read more in the Environment and Natural Resources section.*

Status: Did not pass.

Utility Refund Repayment Bill ([HF 2971](#)/[SF 2476](#))

AMC continued work with members to forward a proposal that would require the state to pay back all costs associated with state-assessed property tax refund orders. Staff joined forces with Clearwater County Auditor Al Paulsen, Carlton County Assessor Kyle Holmes, and Carlton County Commissioner Mark Thell to share with legislators the sense of fear and nervousness counties have on an Enbridge tax court case that includes multiple years of property tax assessments and 13 counties along with municipalities and school districts. A [May 2018 Tax Court decision](#) added to these concerns showing counties would be on the hook for tens of millions of dollars, a situation that would deplete county reserves and significantly impact county budget and levies. In January 2019, the Supreme Court ruled in response to an appeal by the Department of Revenue, that the Tax Court ruling was not based on the proper use and guidelines of rule 8100, and that the case will go back to the Minnesota Tax Court to be readdressed and reassessed using proper methodology. In hearings before the House and Senate tax committees, legislators on both sides of the aisle expressed empathy for the local governments involved but struggled to prioritize a funding solution in budget targets. AMC staff also testified in support of efforts to better research assessment methodology that promotes long term consistency. This measure dovetailed past AMC efforts to require Department of Revenue to issue a report looking at how other states do assessments of utility companies and tasked the Commissioner with suggesting changes to increase the dependability of assessments in the future. In the end, utility companies expressed concerns about the report proposal.

Status: Did not pass.

COUNTY GOVERNANCE

County Row Officer Appointment bills ([HF 968/SF 1731](#))

A joint AMC-Minnesota Association of County Officers (MACO) effort to provide a statewide process for the appointment of recorder, treasurer, and auditor was passed this year after over a decade's worth of work and collaboration. Signed into law as part of the Omnibus State Government Finance committee agreement, the new law will create a process for counties and elected officials to move certain offices—a combination of auditor, treasurer, and or recorder—into appointed positions IF there is agreement with the incumbent or if there is a vacancy in the office. Based on these two conditions being met, county boards would be required to host public meetings, take a 4/5—or supermajority—board vote in approval, and provide for a 30-day period where 10% of eligible voters could sign a petition and overturn the board decision. These provisions were all part of the compromise MACO, AMC, and the Minnesota Association of County Administrators (MACA) worked on for over five years and had sweeping and growing bipartisan support at the Legislature.

Status: Signed by the governor on May 30, 2019 ([Chapter 10](#)) MN Session Laws – 2019, 1st Special Session.

Local Government Information Technology Field Testing Requirement ([HF 132/SF 316](#))

An AMC and MICA-led initiative to require state agencies to field test new technologies/software before implementation/deployment was successfully passed into law. HF 132/SF 316 requires any state agency implementing a program that would significantly impact the day-to-day operations of end users, including local governments, to conduct primary user acceptance testing by end users before fully rolling out the system for use. This language was introduced to avoid situations like the ongoing issues with the MNLARS and METS systems, and ensure that program “bugs” are fixed prior to full implementation. This bill was included in both the House and Senate versions of the State Government Finance Omnibus bill, but due to slow movement in budget negotiations, HF 132/SF 316 was taken up as a stand-alone bill by both bodies in the final hours of the 2019 session and passed. It was signed into law by Gov. Walz.

Status: Signed by the governor on May 30, 2019 ([Chapter 10](#)) MN Session Laws – 2019, 1st Special Session.

Local Compensation Limits ([HF 703/SF 1651](#))

A MICA and LMC-led (AMC supported) bill to repeal compensation limits for local government employees was heard in both chambers this year and even incorporated into the House Omnibus State Government Finance bill before it died in conference committee. HF 703/SF 1651 would repeal the current statutory compensation limits for certain local governments while also doing away with the current exemption process run through the Office of Minnesota Management and Budget (MMB). The current compensation limit for local governments other than schools and the Minnesota Airport Commission is 110% of the governor's salary (beginning in 2006) plus inflation—bringing the 2019 amount to approximately \$175,000. Olmsted County Commissioner Sheila Kiscaden testified numerous times throughout session that the compensation limit made it difficult for counties to find and retain talent and that the MMB exemption process was inconsistently applied and unpredictable in its results. The Senate amended their bill later in session to move the salary cap up to \$200,000 plus inflation going forward, keeping the current MMB process in place for counties who wanted to apply for exemption. In the end, the Senate was not supportive of any version of this bill.

Status: Did not pass.

Certified Private Accounting Firm “Bill of Rights” ([HF 1537/SF 644](#))

In 2017, State Auditor Rebecca Otto released “findings” of inadequacies of several private county audits. These findings listed several northern counties, claiming that the annual audits done by private CPA firms were inadequate and below industry standards. As a result, the State Auditor could re-audit the counties’ financial books for a second audit at the taxpayers’ expense. In response to timing, lack of communication, and questions regarding the merits of the alleged inadequacies, the Legislative Auditor released a [report](#) in the beginning of the 2018 session that concluded the Office of the State Auditor (OSA) did not adequately document how it reached its audit conclusions and that the county audits conducted by private firms met generally accepted auditing standards.

To make sure that this unfortunate experience would not happen in future years, legislators worked in a bipartisan fashion to create a CPA “bill of rights” that would require the State Auditor to communicate with the firm in question and allow the CPA firm an opportunity to respond to findings/conclusions. This bill was part of the Omnibus Supplemental Finance bill vetoed by Gov. Dayton last year. Since then, newly elected State Auditor Julie Blaha has worked with certified private accounting firms to update the office’s own internal processes and disputes process alleviating several of the primary concerns. The bill was not included as part of the Omnibus State Government Finance bill agreement and it is unclear there will be a need for similar legislation in the future.

Status: Did not pass.

Joint Powers Private Audits ([HF 1988/SF 2029](#))

A bill that would provide joint powers authorities the same privileges afforded to counties to choose a private audit firm for their annual audits was included in the Senate’s version of the State Government Finance bill but did not survive conference committee negotiations. SF 2029 would have expanded Minnesota Statutes 6.481 definition of “county” to include a special district consisting exclusively of counties operating under a joint powers agreement.

Status: Did not pass.

State Auditor Lawsuit Reimbursement ([HF 1515/SF 2333](#))

In 2015, AMC worked with a bipartisan group of legislators to pass a law allowing counties to use private certified accounting firms to conduct their annual audits—a right other cities, school districts, and townships have had for years. Immediately following successful passage and signature by Gov. Mark Dayton, State Auditor Rebecca Otto sued three counties (and originally the state) to deem the law unconstitutional—arguing that the law change “gutted her office” and broke the single-subject rule, which requires bills to adhere to a single subject.

Counties celebrated success after a [spring 2018 Minnesota Supreme Court decision](#) upheld an earlier Ramsey County District Court decision ruling the law change as constitutional. Because of these cases, however, the three counties named in the lawsuit (Ramsey, Becker, Wright) had to spend additional staff and resources for outside counsel. Last year’s vetoed Omnibus Supplemental Finance bill included \$140,000 in reimbursement divided equally between Becker and Wright counties for costs incurred by outside legal counsel. The 2019 Omnibus State Government Finance bill also included this reimbursement.

Status: Signed by the governor on May 30, 2019 ([Chapter 10](#)) MN Session Laws – 2019, 1st Special Session.

Interactive TV and Open Meeting Law ([HF 281/SF 1246](#))

The Legislature made changes to the Open Meeting Law this year to allow for a unique exemption to enable local government officials deployed in the military to use interactive TV (including Skype) even if the location is not public. Current Open Meeting Law provisions mandate county commissioners using interactive TV to make sure that the remote location is open/accessible to the public and properly posted. The newly passed law will limit the use of the exception to three times in a calendar year and require the minutes to reflect the names of members participating by interactive TV and the reasons for their appearance by interactive TV.

Status: Signed by the governor on May 17, 2019 ([Chapter 33](#)).

ADA Compliance Grants for Local Government Websites ([HF 2808](#))

HF 2808 allocated \$200,000 in grant funding (\$100,000 per year for two years) over the next biennium for counties and cities to improve ADA compliance on their official websites. In 2018, three lawsuits were filed against local governments pertaining to their website accessibility standards and the litigation is ongoing. When this bill was heard in the House Subcommittee on Local Government, an amendment was proposed that would make this a one-time grant appropriation.

Due to the House 24-hour rule for introduction of substantive amendments, the amendment was taken up in a later meeting of the House State Government Finance committee. During this hearing, the Minnesota Council on Disability and AMC staff testified in favor of this grant appropriation and the significant need it addresses, and the amendment failed. HF 2808 was included in the House State Government Finance Omnibus bill, but not in the Senate version. Ultimately, this grant funding was not included in the final State Government Finance Omnibus bill agreement that was passed during the 2019 Special Session and signed by the governor.

Status: Did not pass.

Minnesota Census 2020 Mobilization/Funding ([HF 1644/SF 2002](#))

The Omnibus State Government Finance bill included \$1.6 million to the State Demographer's office to implement a Census 2020 mobilization program—including language requiring 45% of this money be used by the Minnesota Council on Foundations for subgrants to local governments, tribes, universities, and non-profits engaged in census mobilization activities through complete count committees. AMC testified on several occasions in support of adequate census funding and the important role an accurate census count has on county programs—primarily via federal reimbursement rates for HHS programs.

Status: Signed by the governor on May 30, 2019 ([Chapter 10](#)) MN Session Laws – 2019, 1st Special Session.

ELECTIONS

Election Cybersecurity Funds ([HF 14/SF 241](#))

A surprise 2017 passage of federal cybersecurity legislation included \$380 million in grants to states to increase and address cybersecurity for elections—including nearly \$6.6 million to the state of Minnesota. AMC, MACO, and LMC participated in ad hoc work groups led by the Secretary of State's office to establish a workplan for use of the federal grant money—prioritizing investment in securing the Statewide Voter Registration System (SVRS), cybersecurity upgrades, and grants to local governments for improved security/accessibility. By the start of the 2019 session, Minnesota was the only state in the union not to have released the HAVA funds for necessary upgrades. While the issue was largely seen as bipartisan, House and Senate State Government Finance chairs were at odds with details on how to proceed.

With mounting pressure from the media, public, and fellow legislators, the issue was finally put to bed when Senate Majority Leader Paul Gazelka promised reporters during final week negotiations that the funds would be released by the end of session. The clean funding bill was included in the final Omnibus State Government Finance bill and will allow the Secretary of State's Office to start their workplan immediately in preparation for the next major election cycle.

Status: Signed by the governor on May 30, 2019 ([Chapter 10](#)) MN Session Laws – 2019, 1st Special Session.

Presidential Primary Changes ([HF 1153/SF 847](#))

A 2016 law change created a new presidential primary system that will be administered by county and local election officials rather than the political parties themselves. Counties expressed numerous concerns about the logistics of running another election (during an already busy property tax mailing season), potential inadequacies in the reimbursement methods, difficulties in finding and retaining a sufficient number of election judges, as well as frustrations about voters' data being part of a public registration list. The State Government Finance conference committee agreement included language to address several of these concerns, limiting ballot data to major political parties and including language clarifying that all election-related expenses would be reimbursable by the state. Efforts to switch the entire presidential primary to a mail-only ballot were introduced and heard in the House (HF 1153) but did not make any headway.

Status: Signed by the governor on May 30, 2019 ([Chapter 10](#)) MN Session Laws – 2019, 1st Special Session.

Election Equipment Grants

Senator Mary Kiffmeyer's inclusion of \$2 million in additional election equipment grants survived budget negotiations to be part of the final State Government Finance agreement with the House. The one-time appropriation compliments a past investment by the state (\$7 million in 2017) and will be distributed based on the [existing voting equipment grant account](#)—limiting a grant to no more than 75% of the total cost of e-poll books or 50% of other election equipment.

Status: Signed by the governor on May 30, 2019 ([Chapter 10](#)) MN Session Laws – 2019, 1st Special Session.

Miscellaneous Elections Provisions ([HF 1603](#))

The House moved a multitude of elections-related provisions into their Omnibus State Government Finance bill despite concerns raised by both House and Senate GOP members about several provisions being too controversial.

- **Restoration of Felon Voting Rights:** An AMC and MACO supported effort to restore the right to vote for individuals who have completed their term of incarceration. This effort was also supported by the County Attorneys Association.
- **Early Voting:** Would establish new procedures for true early voting in Minnesota that would allow a voter to directly cast a ballot at a centralized polling location during a specified period prior to election day. The language applied to federal, state, and county elections from 30 days prior to the election to the third day before.
- **Uniform Mail Balloting Threshold:** Current Minnesota statute allows all cities with fewer than 400 registered voters to use mail balloting except for cities located in the metropolitan area. This proposed—and AMC-supported—legislation would have expanded the same threshold to all cities regardless of geographic location.
- **Rank Choice Voting:** Lays out the process and requirements for administration of rank choice voting along with providing authorization for local governments to use the option for electing local officials.
- **Expanded Electronic Voting Systems:** Would expand the types of electronic voting systems that could be certified for use in Minnesota to include touch screen systems that produced a paper ballot/Electronic Systems and Technology (ES&T).

Status: Did not pass.

HUMAN RESOURCES

Paid Family and Medical Leave ([HF 5/SF 1060](#))

A proposal to create a new Paid Family and Medical Leave program for the entire state of Minnesota (both public and private sector) was one of the hottest topics discussed during session. HF 5, one of the House DFL's top ten priority pieces of legislation unveiled at the beginning of session, would provide up to 12 weeks paid leave for a variety of qualifying events including pregnancy and bonding (adoption and/or fostering a child), a serious health condition, a qualifying exigency, and safety leave. The program would be funded by contributions from employees and employers (.65% of an employee's wages split between employer and employee) and would pay various levels of wage replacement based on a progressive benefit scale aimed at provided lower income tiers maximum wage replacement.

To sift through the mechanics of this massive piece of legislation, AMC created an ad hoc group of county human resources and administrative staff to delve into the specifics of the bill, analyze county impacts, and brainstorm possible alternative approaches. AMC met with Rep. Halverson, Chair, multiple times throughout session, having productive conversations about current county leave policies (and the role of collective bargaining benefits), the potential cost to employers and employees, as well as the difficulty in being able to substitute an employer plan with the current duration requirements.

As the session continued—and the bill moved through more than 10 committee stops—Rep. Halverson offered several author's amendments to address concerns expressed, including:

- Clarifying that the employer could require leave to run concurrently with leave taken under FLMA;
- Allowing the effective dates for payment of benefits and program implementation markers to be pushed back under certain circumstances; and

- New language that would further clarify substitution of private plans. The latter amendment specifically stated that employers may substitute a private plan in exchange for the proposed state program if “the total dollar value of wage replacement benefits under the private plan...meets or exceeds what the total dollar value would be under the [state] family and medical benefit program.”

In the end, the size, scope, and cost of this bill raised major concerns among House and Senate GOP members creating an insurmountable obstacle for the House DFL. Supporters of the provision attest that while the issue did not pass this year, the idea of some sort of paid family leave program has a tremendous level of support in the DFL party and has been polling well among younger voters and more suburban districts. AMC will continue monitoring any additional/new proposals and their effects on current collective bargaining structures, employee/human resources management structures, and county budgets.

Status: Did not pass.

Military Differential Pay Requirement ([HF 142/SF 274](#))

A proposal that would require counties to pay the difference in salaries for active duty/deployed service members was included in the House State Government Finance Omnibus bill this year but failed to make it into the final conference committee report after several legislators expressed concerns about the bill’s language and possible effects. AMC testified on several occasions outlining current benefits afforded to veterans during the hiring and employment process while also noting that the bill would disproportionately impact the very counties that are providing veterans jobs and paying good salaries. AMC also offered several suggestions including having the state provide reimbursement for the mandate and/or making sure the comparison of benefits included other compensation structures (food, housing, combat pay) outside of military base pay. In the end, the original author was not interested in these amendments.

Status: Did not pass.

Sexual Harassment Definition Change Proposal ([HF 10/SF 1307](#))

Continuing efforts started last session, legislative leaders worked in a bipartisan fashion to propose new changes to sexual harassment statutes in an effort to address inappropriate behavior. HF 10, authored by Rep. Kelly Moller, was carryover language from former Majority Leader Joyce Peppin’s HF 4459 last year and would have expanded MS 363A.03 to clarify that “An intimidating, hostile, or offensive environment does not require the harassing conduct or communication to be severe or pervasive.” This short, but impactful, language would counter a standard set by the U.S. Supreme Court that requires an act of sexual harassment to be severe and pervasive—a bar that legislative authors stated was too high. During hearings, advocates for the provision laid out several instances where obvious sexual harassment was thrown out by the courts for not meeting the federal standard and argued that contrary to opponent’s views, the new language would not open the flood gates of litigation, but rather allow judges more latitude with a standard that is too high. Conversely, employers testified with concerns that the broadened language does not have enough guidelines, potentially increasing litigation costs while the courts decide a new standard. The proposal moved as a standalone bill and was amended on the House floor to clarify that a “a reasonable person in similar circumstances to the plaintiff would find the environment intimidating, hostile, or materially offensive...” and that the intimidating/hostile/offensive environment must be determined on the totality of circumstances. While the House passed the proposal by a near unanimous vote, the Senate Judiciary Committee did not hear the counterpart or offer an alternative during the final budget and omnibus bill negotiation process. AMC remained neutral on this proposal.

Status: Did not pass.

PENSIONS

PERA “PRO” Option ([SF 2620](#)/[HF 3053](#))

A 2009 Phased Retirement Option (“PRO”) [program](#) to allow for eligible PERA plan members 62 and older to continue working half time or less while collecting a retirement annuity was set to expire this year. AMC, MICA, and LMC worked alongside the PERA Board of Directors to garner support for the extension of the program at the Legislature, arguing that it was a vital tool to keep valued professionals in the job longer and allow for the mentorship of the next generation of county employees and leaders. The legislation continues to allow eligible members to enter into an agreement with their employer if they work half time or less and still receive an annuity and extends the maximum initial agreement period from one year to five years.

Status: Signed by the governor on May 30, 2019 ([Chapter 8](#)) MN Session Laws – 2019, 1st Special Session.

PERA General Aid ([HF 2387](#)/[SF 2488](#))

In 1997, the state of Minnesota created a Public Employees Retirement Association (PERA) aid program intended to offset mandated employer contribution increases for the General Plan. This aid was tied to the percentage of total payroll growth for the Coordinated Plan (as of July 1, 1997) and was set to sunset when the plan was fully funded—at the time of enactment, July 1, 2020. AMC joined forces with LMC and MICA to ask legislators to honor the current Coordinate Plan amortization date of July 1, 2048. Legislators in both the House, Senate, and Legislative Commission on Pensions and Retirement expressed support of the proposal and empathy that a “promise made should be a promise kept.” Representative and Pension Committee Chair Mary Murphy passionately fought up until the last minute of session to find a space for the funding; however, despite bipartisan support, legislators were not able to find the roughly \$13.8 million/year (or \$28 million each biennium) needed to move back the sunset.

Status: Did not pass.

Health and Human Services

For additional information on this section, please contact Emily Babcock, Policy Analyst, at 651-789-4325 or ebabcock@mncounties.org

Each of AMC's priorities were addressed this session and counties generally fared well in health and human services, even though the final budget bill did scale back spending from the original proposals, with an overall \$358 million reduction in spending.

The extension of the provider tax stabilizes the Health Care Access Fund to help pay for health care services for about one million Minnesotans. The tax on health care services has been in place since 1992 and was scheduled to sunset at the end of this year. Republicans had argued for the tax to sunset and a final deal extended the tax indefinitely at a reduced rate of 1.8 percent instead of 2 percent.

When counties started the session, they faced paying 100 percent of the costs of care for services at children's residential facilities, thanks to a change in a federal designation. Following the federal change, certain residential facilities with more than 16 beds were no longer eligible for federal Medical Assistance (MA) funds. Federal reimbursement stopped in 2018, and while state funds were authorized to fill the gap, those funds expired in May. Gov. Walz signed a bill early in the session to extend those funds to the end of the biennium. The final budget agreement extended state funding to fill the federal gap indefinitely. The legislation also authorizes the expansion of additional facilities – psychiatric residential treatment facilities – to help build out the continuum of care for children needing intensive mental health services.

Intensive Children's Services ([HF 1888/SF 1835](#))

When the session started, counties faced a steep increase in costs for caring for children with intensive mental health needs. Following a federal change, certain residential facilities with more than 16 beds are no longer eligible for federal Medical Assistance (MA) funds. Federal reimbursement stopped in 2018, and while state funds were authorized to fill the gap, those funds expired in May 2019. Gov. Walz signed a bill early in the session to extend those funds to the end of biennium. Throughout session, counties worked alongside mental health advocates and providers to talk about the increasing community needs for additional mental health resources. The final budget agreement extended state funding to fill the federal gap indefinitely. The legislation also authorizes the expansion of additional facilities and psychiatric residential treatment facilities to help build out the continuum of care for children needing intensive mental health services—all major victories for counties.

Status: Signed by the governor on May 30, 2019 ([Chapter 9, Article 6, Sec. 56, 74-75](#)) MN Session Laws – 2019, 1st Special Session.

County Appeals for Cost of Care ([HF 1867/SF 1982](#))

Counties will be able to dispute the cost of care for an individual discharged from Anoka Metro Regional Treatment Center (AMRTC), or other state operated facilities, when a delay in discharge is a result of the following:

- The facility did not provide notice to the county that the facility has determined that it is clinically appropriate for a client to be discharged.
- The notice to the county that the facility has determined that it is clinically appropriate for a client to be discharged was communicated on a holiday or weekend.
- Required documentation or procedures for discharge were not completed in order for the discharge to occur.
- Facility disagrees with the county's discharge plan.

In addition, SF 12 also directs the Minnesota Department of Human Services (DHS) to report back to the Legislature a review of county and state efforts to reduce the number of days individuals spend in state-operated facilities after no longer meeting medical criteria for hospitalization.

Status: Signed by the governor on May 30, 2019 ([Chapter 9](#), Article 3, Sec. 1) MN Session Laws – 2019, 1st Special Session.

AMC Priority: Opioid Legislation ([HF 400/SF 751](#))

AMC continues to highlight the role counties play in responding to opioid addiction and other substance use issues in communities. Legislators worked in a bipartisan fashion to pass comprehensive legislation aimed at reducing the burden of addiction by strengthening prevention, treatment, and education-- including assistance targeted to counties. Specifically, HF 400 will increase fees of drug makers and distributors helping the state collect nearly \$21 million a year that will be deposited into an opiate epidemic response account. About \$8 million will be distributed to counties and tribal social service agencies to provide child protection services to children and families who are affected by addiction. Money will be distributed proportionately to counties and tribal social service agencies based on out-of-home placement episodes where parental drug abuse is the primary reason for the out-of-home placement.

Additional funds, \$16.3 million, will be directed to a statewide Opiate Epidemic Response Advisory Council, which will identify projects and initiatives to fund. The council, which will include a member from a local public health department, will also be charged with establishing statewide goals to improve prevention and public health, access to treatment, and multigenerational impacts.

The remaining money will be used for prevention grants which will focus on prevention and education, training on the treatment of opioid addiction, expansion and enhancement of a continuum of care for opioid-related substance use disorders, and the development of measures to assess and protect the ability of patients who legitimately need prescription pain medications to maintain their quality of life by accessing these medications without facing unnecessary barriers. Money is also included for traditional healing grants, non-narcotic pain management, BCA drug scientists and labs, as well as for BCA agents for drug enforcement.

Once the state receives a total sum of \$250 million from a settlement of the pending litigation against opioid manufacturers, the agreement will sunset and the fees will drop. If fees are reduced, the state will still collect an estimated \$13 million annually.

Finally, the legislation adds to the list of individuals who are authorized to administer the life-saving opioid overdose reversal medication naloxone. Public health nurses, volunteer firefighters, and correctional employees are now authorized to administer the medication.

Status: Signed by the governor on May 22, 2019 ([Chapter 63](#)) MN Session Laws – 2019.

AMC Priority: Stability of the Health Care Access Fund ([HF 2459/SF 2462](#))

Counties highlighted the need for a stable fund to continue to help support access to Minnesota Care and Medical Assistance. AMC argued that if \$700 million stopped going to the state's Health Care Access fund, counties could not afford to fill the health care funding gap. The primary revenue source for the Health Care Access Fund – the 2% tax on gross revenues of health care providers, or provider tax – was scheduled to sunset at the end of 2019.

As part of the final budget agreement, lawmakers agreed to eliminate the sunset (thereby continuing the funding) and reduce the tax from 2% to 1.8%.

Status: Signed by the governor on May 30, 2019 ([Chapter 9](#)) MN Session Laws – 2019, 1st Special Session.

CHILDREN AND FAMILIES

MFIP Grant Increase ([HF 309/SF 167](#))

The monthly cash assistance portion of the transitional standard was increased \$100 per month, per household. The monthly payment had not been increased in Minnesota since 1986.

Status: Signed by the governor on May 30, 2019 ([Chapter 9, Article 1, Sec. 20](#)) MN Session Laws – 2019, 1st Special Session.

Full Funding for Child Protection Staffing Grant ([HF 2217/SF 543](#))

Child Protection grant allocation payments to counties will be made without withholding up to 20% of funding based on performance outcomes. DHS is authorized, however, to redirect up to 20% of a county's funds toward a performance improvement plan if a county has not demonstrated that it has invested sufficient funds toward improving child protection performance.

Status: Signed by the governor on May 30, 2019 ([Chapter 9, Article 1, Sec. 21-22](#)) MN Session Laws – 2019, 1st Special Session.

Child Welfare Training Academy ([HF 499/SF 958](#))

In partnership with the University of Minnesota, the state will establish five regional hubs that will offer training targeted to the needs of the region and aimed at child welfare workers, supervisors, and staff at agencies providing out-of-home placement services.

Content will include an emphasis on racial disparities and disproportionate child welfare outcomes and will be informed by stakeholders, including child welfare professionals as well as community stakeholders.

Status: Signed by the governor on May 30, 2019 ([Chapter 9, Article 1, Sec. 37](#)) MN Session Laws – 2019, 1st Special Session.

Expansion of American Indian Child Welfare Projects ([HF 2414/SF 2452](#))

The Omnibus Health and Human Services bill appropriates \$15 million (FY 2020-21) toward expanding tribal delivery of child welfare services. Currently there are two tribal child welfare initiative programs that are operational. Both Leech Lake Band of Ojibwe and White Earth Nation offer child welfare services including child abuse prevention, family preservation services, child protection response system, and out-of-home placement. Funding will help support existing programming.

In addition, funding is appropriated to expand the initiative and designate for planning and capacity building for the transfer of child welfare cases for American Indian children to Red Lake Nation and Mille Lacs Band of Ojibwe. The Red Lake Nation is expected to transfer child welfare cases from Beltrami County January 1, 2021.

Status: Signed by the governor on May 30, 2019 ([Chapter 9, Article 1, Sec. 19](#)) MN Session Laws – 2019, 1st Special Session.

Family First Preservation Act ([HF 2414/SF 2452](#))

The federal Family First Prevention Services Act (FFPSA) passed in 2018, changes the way states can use federal Title IV-E foster care funds and is aimed at reducing the use of congregate care settings and keeping families together. States have flexibility in how the legislation is implemented, but once the state has an approved Title IV-E plan, federal funds can be used for a greater array of services aimed at preventing out-of-home placements – this includes improving services so that children are served with family or kin. In the meantime, the federal requirements direct state and tribal child welfare agencies to modify elements of foster care programs by specific dates in order to maintain eligibility for federal Title IV-E funding for foster care.

Changes approved by the Legislature this year included allowing for a child in foster care to be co-located with a parent in a residential family-based substance abuse disorder treatment program and allows for foster care payments. The changes also updated the requirements for background studies to include staff and children's residential facilities. The Legislature also appropriated \$1.91 million to support initial work to plan for implementing the legislation.

Finally, the omnibus bill strengthened the role of grandparents and other relatives to potentially serve as foster care by directing DHS to examine potential kinship navigator programs. These programs would strengthen services to grandparents and other relatives raising children through the child welfare system. The commissioner will also be directed to provide additional guidance to counties in conducting relative services to help facilitate engagement and communication with relatives of children in the child welfare system.

Status: Signed by the governor on May 30, 2019 ([Chapter 9, Article 1, Sec. 24, 26-31, 36](#)) MN Session Laws – 2019, 1st Special Session.

African American Family Preservation Act ([HF 342/SF 730](#))

Some of the parallel work in identifying reforms for child welfare centered on a proposal for policy changes aimed at reducing the disproportionate representation of African Americans in the child welfare system. The African American Family Preservation Act ([HF 342/SF 730](#)) proposed a statewide oversight council, additional reporting and tracking for local social service agencies, and additional staff to provide guidance and oversight. The legislation did not pass, but county stakeholders continue to have an interest in identifying reforms that can strengthen outcomes for families and reduce disparities within the system.

Status: Did not pass.

BEHAVIORAL HEALTH

Minnesota Sex Offender Program Cost Shift ([HF 2414/SF 2452](#))

Counties will now face a cost shift for certain services under the Minnesota Sex Offender Program, including responsibility for 25% of the cost of care for individuals who are provisionally discharged from the program. The state will retain the responsibility for aftercare and case management for individuals. The cost shift was part of a \$19.5 million (FY 2020-21) funding package to expand resources to the program. The funding will help support Community Preparation Services, a less restrictive setting on the St. Peter campus, and reintegration services for individuals to transition to the community.

Status: Signed by the governor on May 30, 2019 ([Chapter 9, Article 3, Sec. 2](#)) MN Session Laws – 2019, 1st Special Session.

Behavioral Health and Mental Health Finance Restructuring ([HF 2414/SF 2452](#))

The Omnibus Health and Human Services bill also made major changes to the way the state publicly finances behavioral health services by better aligning payments for mental health and substance use disorder services. These changes also include funding room and board for individuals in residential treatment and presumptive eligibility for housing support for individuals discharged from treatment programs. The state also removed the county share to the Consolidated Chemical Dependency Treatment Fund for individuals enrolled in Medical Assistance. The current share of 22.95% will only apply to individuals who are not enrolled in Medical Assistance.

\$8.17 million was appropriated (FY 2020-21) to assume the county share of Medical Assistance (MA) paid services and \$10.4 million was appropriated to assume the county share of room and board.

Status: Signed by the governor on May 30, 2019 ([Chapter 9, Article 6, Sec. 43-45, 48, 51](#)) MN Session Laws – 2019, 1st Special Session.

Competency Restoration Task Force ([HF 2069/ SF 2012](#))

Counties will be invited to participate in a new task force examining issues of competency restoration. The issue of competency restoration was highlighted early in session following the announcement in December 2018 by the Department of Human Services that the competency restoration program would be discontinued. Once an individual who was committed to a state hospital no longer required psychiatric treatment, they would be discharged regardless of whether the individual was capable of going to trial. That leaves individuals who are unfit for trial in limbo as current statute does not direct which entity is responsible for carrying out competency services.

The Community Competency Restoration Task Force will be charged with developing recommendations to address the growing number of individuals deemed incompetent to stand trial including increasing prevention and diversion efforts, providing a timely process for reducing the amount of time individuals remain in the criminal justice system, determining how to provide and fund competency restoration services in the community, and defining the role of counties and state in providing competency restoration.

Membership of the task force will include a representative appointed by the Association of Minnesota Counties and two representatives appointed by the Minnesota Association of County Social Service Administrators.

Status: Signed by the governor on May 30, 2019 ([Chapter 9, Article 6, Sec. 77](#)) MN Session Laws – 2019, 1st Special Session.

Data Sharing Between Sheriff and Social Services ([HF 2550](#))

Law enforcement conducting mental health screening tools as part of intake procedures will be allowed to share the names of the individuals who have screened positive with the local social services agency. The purpose would be to assist counties in applying for MA plans for case management and other appointments or referrals. The language requires that social services data be destroyed after 15 days if the client declines services.

Status: Signed by the governor on May 30, 2019 ([Chapter 9, Article 6, Sec. 1, 73](#)) MN Session Laws – 2019, 1st Special Session.

PUBLIC HEALTH

Public Health Funding ([HF 1981/SF 1364](#))

Funding for both the Local Public Health Grants and the Statewide Health Improvement Partnership (SHIP) remained stable and at base level. SHIP funding will continue to be allocated from the Health Care Access Fund. Policy changes to SHIP will expand the areas of programming. In addition to addressing the top three leading preventable causes of illness and death (tobacco use, poor diet, and lack of physical activity), other issues identified by the statewide health assessment may be addressed if authorized by the Commissioner of the Minnesota Department of Health. The funding to community health boards for SHIP projects must be used toward proven-effective, promising practice, or theory-based strategies.

Status: Signed by the governor on May 30, 2019 ([Chapter 9, Article 11, Sec. 71-75](#)) MN Session Laws – 2019, 1st Special Session.

Public Health Telemedicine Services ([HF 1286/SF 1363](#))

Public health workers will be able to bill Medical Assistance for more than 3 visits per week if providing telehealth services to treat tuberculosis. In addition, the legislation also allows community health workers to be able to provide telehealth services.

Status: Signed by the governor on May 30, 2019 ([Chapter 9, Article 7, Sec. 23](#)) MN Session Laws – 2019, 1st Special Session.

Safe Drinking Water Fee Increase ([HF 1846/SF 1397](#))

The state will raise the current safe drinking water fee for the first time since 2005. The fee is charged per water service connection per year and will increase from \$6.36 to \$9.72. The fee directly funds the Department of Health's water quality testing for the state's 7,000 public water supplies.

Status: *Signed by the governor on May 30, 2019 ([Chapter 9, Article 11, Sec. 21](#)) MN Session Laws – 2019, 1st Special Session.*

Tobacco Cessation ([HF 350/SF 461](#))

The state will fund a statewide tobacco cessation quitline (\$4.3 million, FY 2020-21) to provide counseling on cessation, nicotine replacement therapies, and cessation public education. The quitline will replace the existing ClearWay Minnesota QUITPLAN® Services. ClearWay, which was funded by tobacco settlement dollars, is scheduled to sunset at the end of 2019. The Minnesota Department of Health will operate the new statewide quitline and contract with a vendor to offer a 24/7 call center and online registration process for counseling and nicotine replacement therapies.

In addition to funding cessation services, lawmakers amended the Minnesota's Clean Air Act to prohibit the use of e-cigarettes in indoor facilities.

Signed by the governor on May 30, 2019 ([Chapter 9, Article 11, Sec. 22, 23-31](#)) MN Session Laws – 2019, 1st Special Session.

Tobacco 21([HF 331/SF 463](#))

A patchwork of local ordinances will continue for the near future, as a statewide proposal to increase the age individuals can purchase tobacco from 18 to 21 failed to garner enough support to get to the governor's desk.

Status: *Did not pass.*

PROGRAM INTEGRITY

Strengthening program integrity was a theme throughout session in both the House and Senate. During session, the Office of the Legislative Auditor issued two reports related to the misuse of funds within the childcare assistance program (CCAP). The report included several recommendations aimed at reducing misuse of CCAP funds. In addition, lawmakers considered strategies directed at other publicly funded programs including medical assistance and nonemergency medical transportation.

Childcare Assistance Program (CCAP)

The omnibus Health & Human Services bill incorporates several program changes to the childcare assistance program. These changes include:

- Requiring counties to provide applicants and recipients of CCAP information about fraud.
- Allowing certain CCAP payment data to be made public.
- Allowing counties to investigate financial misconduct by child care providers and suspend a provider's payment.
- Adjustments of how providers are disqualified from participating.
- Incorporating electronic attendance and record keeping.

Status: *Signed by the governor on May 30, 2019 ([Chapter 9, Article 1, Sec. 6/Article 2, Sec. 7, 50, 107, 110](#)) MN Session Laws – 2019, 1st Special Session.*

Other Funding Directed to Fraud Prevention

An additional \$425,000 per year was appropriated to the Fraud Prevention Investigations (FPI) grant program. Counties can use the resources to investigate recipient fraud in human services programs. Currently, the Office of Inspector General (OIG) administers a \$3.2 million (\$1.9 million state funds, \$1.3 million federal funds) annual grant that funds investigator positions in counties and regions covering 79 of Minnesota's 87 counties.

In addition to some of the policy changes, funding was appropriated for additional staff within DHS and the OIG to focus on program integrity measures. Additional staff will focus on the following:

- Investigators in the Surveillance and Integrity Review Section (SIRS) of the Office of Inspector General, which investigates potential fraud or abuse for Medical Assistance;
- Child care licensing staff in DHS' Licensing Division to conduct additional newly-licensed child care centers as well as centers showing significant signs of noncompliance or whose licenses are on conditional status;
- Data analysts for prospective and retrospective data analytics in the Child Care Investigations Unit; and
- Additional law enforcement investigators for child care fraud.

Additional Agency Review ([SF 12 Article 2, Sec. 129 and 130](#))

DHS will also be required to report back to the Legislature on additional recommendations related to program integrity. DHS was directed to consult with counties in the interim and report to the Legislature in January 2020 on the following:

- Recommendations for legislation that identifies and clarifies the responsibilities of the department and counties for fraud investigation.
- Recommendations for legislation on how to count self-employment income for purposes of determining eligibility for and maintaining the integrity of public assistance programs.

Status: Signed by the governor on May 30, 2019 ([Chapter 9](#)) MN Session Laws – 2019, 1st Special Session.

Blue Ribbon Commission ([SF 12 Article 7, Sec. 46](#))

Legislators created a new commission to look at ways to find savings in the health and human services system. The group will be charged with developing an action plan for improving program efficiencies, producing savings, and promoting better outcomes within health and human services.

The Blue Ribbon Commission will have 17 members, and include legislative and agency leadership, as well as 11 individuals appointed by the governor who have expertise in health and human services. AMC has formally requested county representation on the commission.

Signed by the governor on May 30, 2019 ([Chapter 9](#)) MN Session Laws – 2019, 1st Special Session.

VULNERABLE ADULTS

Elder Care Reforms ([HF 90/SF 8](#))

HF 90 provides \$30 million to strengthen elder care protections throughout the state. The state health department will oversee a new licensing and regulatory process for assisted living facilities. The legislation will allow assisted living residents the right to use electronic monitoring devices in their rooms. Much of the funding will be directed to:

- Strengthening abuse reporting center.
- Establishing a licensure process, one for assisted living facilities and another for facilities with dementia care services.
- Increasing inspections.

Status: Signed by the governor on May 22, 2019 ([Chapter 60](#)) MN Session Laws– 2019.

Public Safety & Corrections

For additional information on this section, please contact Carli Stark, Policy Analyst, at 651-789-4335 or cstark@mncounties.org.

The legislative session started at a fast pace with the House Public Safety and Criminal Justice Reform Finance and Policy Division hearing many bills into the late-night hours up until the first deadline. The Senate Judiciary and Public Safety Finance and Policy Committee took a different approach and heard very few bills, even as the deadlines came and went. The combination of the two approaches seemed to stall the many criminal justice reform bills authored in the House. When the Senate released miniscule budget targets, the House was forced to give up policy bills in favor of crucial public safety funding.

PROBATION

County Probation Funding ([HF 1934/SF 2288](#))

Community Corrections Act (CCA) counties and County Probation Officers (CPO) provide more than 80% of the probation supervision in the state of Minnesota. With strong bipartisan interest and momentum at the beginning of the session, the outlook was good for increased county probation funding. The governor's budget did not include a base increase but did include funds for pre-trial services and intensive supervised release services that would pass through to counties. A bill was heard before the first deadline in the House Public Safety Committee to appropriate funds directly to CCA counties but did not make it through the entire committee process. The Senate public safety committee did not hear the funding bill. The final omnibus budget bill did not include any base increase or pre-trial/Intensive Supervised Release (ISR) funds for county probation but did include a base increase for the Department of Corrections Community Services division.

Status: Did not pass.

5-Year Probation Cap ([HF 689/SF 1606](#))

The House was intent on passing probation reform legislation this session. Included in that reform is legislation aimed at amending current sentencing laws to create a probation cap of five years for felony offenses, excluding murder and criminal sexual conduct crimes. The Minnesota County Attorneys Association initially objected to the measure, but eventually an agreement was made that there would be situations to extend the five-year term up to another five years for payment of restitution and completion of programming. Despite support from major stakeholders including the County Attorneys Association, the Board of Public Defense, and many of the State's probation practitioners, the proposal did not make it onto the floor or into an omnibus bill.

Status: Did not pass.

Modification of Sentencing Guidelines to Include Probation ([HF 2792, 1st Engrossment, Article 9, Sec. 37](#))

Another attempt to reform probation focused on the Minnesota Sentencing Guidelines Commission (MSGC). A House amendment to the omnibus bill mandated that the MSGC create probation sentencing guidelines that would mirror the current sentencing guidelines for prison terms. The proposal would create presumed probation term lengths and was intended to create uniformity in sentencing probation across the state. As with probation caps, the measure was not included in the omnibus bill, nor was it heard on the floor, but it is an issue that is likely to resurface in future legislative sessions.

Status: Did not pass.

Supervision of Felons in CPO Counties ([HF 2254/SF 1200](#))

This proposal would allow County Probation Officer (CPO) counties the option to expand the categories of offenders under their supervision – currently juveniles, adult misdemeanor, and adult gross misdemeanor offenders – to also include some felons that are currently supervised by the Minnesota Department of Corrections (DOC) in those counties. No additional funding was requested.

Status: Did not pass.

CORRECTIONS

Same-Sex Inmate Transfer ([HF 1020/SF 1334](#))

This bill allows law enforcement to transfer inmates of the opposite sex on trips of 100 or more miles provided that the squad car is equipped with video recording hardware. Previously, all inmate transfers of more than 100 miles had to be by an officer of the same sex. This provision allows more flexibility for counties while also ensuring the safety of inmates.

Status: Signed by the governor on May 30, 2019 ([Chapter 5](#)) MN Session Laws – 2019, 1st Special Session.

Solitary Confinement Guidelines ([HF 493/SF 1911](#))

A bill was introduced requiring that state correctional institution administrative and disciplinary segregation use guidelines be established. There have been reports from the Star Tribune about inmates being housed in solitary confinement for hundreds of days and released directly back into the community with little to no services. DOC Commissioner Paul Schnell testified in a House Corrections subcommittee that he acknowledges there are issues with the current policies and he will work towards making a clear policy with graduated step downs from solitary confinement. With the passage of this bill, the Legislature mandates that the issue be addressed and that the DOC reports back to the Legislature to ensure compliance.

Status: Signed by the governor on May 30, 2019 ([Chapter 5](#)) MN Session Laws – 2019, 1st Special Session.

Ombudsman for Corrections ([HF 1399/SF 1090](#))

The Ombudsman for Corrections was created in the 1970's and operated until 2002 when it was defunded. This year the Legislature voted to reestablish the role which includes conducting investigations into incidents between inmates and staff and complaints from jails and detention facilities. As part of its investigatory powers, the Ombudsman has subpoena power, the right to access data and information, and the authority to file suit.

Status: Signed by the governor on May 30, 2019 ([Chapter 5](#)) MN Session Laws – 2019, 1st Special Session.

EMERGENCY MANAGEMENT/SERVICES

Disaster Assistance Contingency Account Reimbursement ([HF 2317/SF 2408](#))

The State's Disaster Assistance Contingency Account has been nearing empty for months with only \$500,000 in the account as of February 2019, which is earmarked for assistance to Duluth after the October 2018 storm. Although none of the standalone bills made it into law, legislators took notice of the dire need for funds and added a \$20 million appropriation as part of the transportation omnibus bill.

Status: Signed by the governor on May 30, 2019 ([Chapter 3](#)) MN Session Laws – 2019, 1st Special Session.

Local Emergency Management Readiness Grants ([HF 1273/SF 1506](#))

In its original introduction, HF 1273/SF 1506 included \$3 million in emergency management readiness grants throughout the state with each county, plus four cities of the first class, and some tribal governments getting approximately \$29,400. The bill had bipartisan support in both houses. The House included a reduced amount of \$300,000 of grants in their public safety omnibus bill and the Senate excluded the provision completely. Ultimately all grant funding was excluded from the budget bill.

Status: Did not pass.

Tele-CPR ([HF 1520/SF 1638](#))

This bill was discussed at AMC's Legislative Conference in the Public Safety Policy Committee. The bill requires training for dispatchers to either provide direction on performing cardiopulmonary resuscitation or transfer certain emergency calls to a public safety answering point. The AMC Public Safety Policy Committee was generally supportive of the bill, but counties have expressed some concerns about liability provisions included in the bill. The bill provides that if a caller refuses or is unwilling to provide CPR, the dispatcher is not required to provide CPR instruction and is immune from civil liability for damages resulting from the fact that instruction was not provided. There is also an opt-out clause for smaller counties that are unable to provide over-the-phone services due to staffing shortages.

Status: Signed by the governor on May 30, 2019 ([Chapter 5](#)) MN Session Laws – 2019, 1st Special Session.

CRIMINAL SEXUAL CONDUCT LAWS

Sex Offender Sentencing and Supervision Changes ([HF 2792/SF 802](#))

Legislation was introduced that makes several changes to sex offender sentencing law. The bill contained changes to sentences for certain possession and distribution of child pornography crimes that met little resistance. It increases the maximum sentence from 10 years to 15 years and increases the conditional release term for people that are convicted of child pornography for profit from 10 years to 15 years. Another change that was included in the omnibus bill broadens the position of authority language in criminal sexual conduct statutes. Currently, increased felony penalties apply to adults who perpetrate sexual crimes against 16-or 17-year-old juveniles when they are in a position of authority over the juvenile. The language that passed in the bill expands the definition to current or recent position of authority to ensure that adults who previously exercised authority over juveniles can be punished for sexual crimes against those juveniles, recognizing the lasting impact of those authoritative roles.

Status: Signed by the governor on May 30, 2019 ([Chapter 5](#)) MN Session Laws – 2019, 1st Special Session.

Elimination of Statute of Limitations ([HF 734/SF 731](#))

Currently, criminal sexual conduct crimes have a statute of limitations between 3 and 9 years. If the crime is not charged within that limitation period, it cannot be charged at any time in the future. Legislation was proposed that would eliminate the statute of limitations for 1st – 4th degree criminal sexual conduct crimes. This would allow victims to report the crime at any point and takes into consideration the realities of delayed reporting due to the trauma experienced by victims of sexual assault. During hearings, there were discussions on the benefit that victims gain when they can report a crime and take affirmative steps towards justice, whether or not the perpetrator is ultimately convicted. Also discussed was due process issues with destruction or deterioration of evidence and the effect it could have on a defendant's case, along with the increased difficulty of prosecuting a case as time elapses.

Status: Did not pass.

Elimination of Voluntary Relationship Defense ([HF 15/SF 235](#))

Last session, a similar bill was introduced but did not pass. This year, the elimination of the voluntary relationship defense had overwhelming bipartisan support and passed both houses unanimously. It allows for the prosecution of spouses in criminal sexual conduct cases, thereby eliminating what is called the “marital rape defense.”

Status: *Signed by the governor on May 2, 2019 ([Chapter 16](#)).*

JUVENILE OFFENDERS

Elimination of Juvenile Life Without Parole ([HF 1717/SF 2792](#))

In 2012 and 2016, two U.S. Supreme Court rulings made portions of Minnesota’s Heinous Crimes Act unconstitutional when applied to juveniles. One such provision is the sentence of life without parole when the offender is a juvenile. A fix to the unconstitutionality would be to apply indeterminate sentences to juveniles convicted of heinous crimes. Legislation was introduced this session (and last) to change the law to allow for juveniles previously convicted of life without parole to be given a chance at parole after serving 25 years. That same sentence would apply going forward to juveniles convicted of heinous crimes. The bill had bipartisan support, but again did not make it through the legislative process.

Status: *Did not pass.*

Juvenile Detention Alternatives Initiative (JDAI) Grants/Staffing ([HF 897/SF1343](#))

JDAI received \$280,000 per year this biennium in continued staffing and \$220,000 in grant funds through the Department of Corrections. JDAI is a program that seeks to eliminate unnecessary and inappropriate use of secure detention for juveniles. AMC supports programs like JDAI that focus on prevention and early intervention efforts that will reduce contact with the criminal justice system. As part of the legislation, the two JDAI staff positions currently housed at AMC will transfer to DOC on July 8, 2019.

Status: *Signed by the governor on May 30, 2019 ([Chapter 5](#)) MN Session Laws – 2019, 1st Special Session.*

OTHER PUBLIC SAFETY LEGISLATION

Criminal Justice System Funding ([HF 2792/SF 802](#))

Below is a summary of the funding the Legislature allocated to other sectors of the criminal justice system that are not detailed in other parts of this document.

- The courts received about 70% of their request for judge and staff salaries (2.5% increases each year rather than 3.5%). They did not receive their request for two new judges, but rather received the addition of one district court judge for the 7th Judicial District, the full request for health care costs, partial information security increases, and full request for the sustainability of treatment courts. In total, courts saw an increase of nearly \$46 million for the biennium.
- The public defenders received their full request for health care costs and salary increases but did not receive the full request for hiring new public defenders. New funding for the biennium totals about \$23 million.
- The Department of Public Safety (DPS) received funding for Homeland Security and Emergency Management. Also included were initiatives such as School Safety Centers, Minnesota IT Services (MNIT) enhancements, supplemental security grants, Rapidan Township disaster reimbursement, and Emergency Response teams. The Bureau of Criminal Apprehension (BCA) received funding to continue their Automated Fingerprint Information System (AFIS) lease and additional money for drug agents and forensic scientists. The additional funds only amount to about \$748,000 more than the last biennium.

- The DOC asked for additional funding to support 125 new correctional officers, but only received funding for 78 new officers. This is less than what was asked for, but more than the Senate proposed in its initial budget. Also received was additional appropriations for recruitment and retention of correctional officers. The newly created Ombudsman for Corrections position was funded as well as the offender health care contract. Of note is the increased base funding for community supervision, but lack of pre-trial, ISR, or county probation subsidy increases. New funding totals about \$62 million.
- Finally, the bill included approximately \$11 million for an operating adjustment and staffing for the Guardian Ad Litem Board to comply with their constitutional mandate.

Status: Signed by the governor on May 30, 2019 ([Chapter 5](#)) MN Session Laws – 2019, 1st Special Session.

Hands Free Bill ([HF 50/SF 91](#))

The House and Senate both introduced bills to prohibit the use of a cell phone while a motor vehicle is in motion without the use of a hands-free system. The prohibition includes making telephone calls and sending electronic messages, whether text messages or e-mail. A data collection amendment was offered by the House to collect demographic information including race/ethnicity and gender but was too contentious to make it through the process. The passage of the bill makes Minnesota the 18th state to enact a hands-free law.

Status: Signed by the governor on April 12, 2019 ([Chapter 11](#)).

Civil Forfeiture Changes ([HF 1971/SF 2155](#))

Legislation was introduced that would eliminate civil forfeiture as it currently operates and replace it with a criminal forfeiture process. The criminal process would require a conviction to allow for forfeiture of property, except in limited circumstances, and most proceeds from the forfeiture would be placed into the general fund. County attorneys and law enforcement were very concerned with this proposal. Property from forfeitures fund a variety of law enforcement functions and a budget hole created by the change in policy would have to be made up by county levy dollars. The proposal was converted to a task force to address the issue on the House floor but was dropped from the final budget bill.

Status: Did not pass.

Task Force on Missing and Murdered Indigenous Women ([HF 1212/SF 1736](#))

A bipartisan task force was created to recommend ways to reduce and end violence against indigenous women and girls in Minnesota. The task force includes representatives from law enforcement, prosecutors, judges, defense attorneys, tribal government officials, nongovernmental agencies, and an indigenous woman who is a survivor of gender-based violence. \$150,000 is appropriated during the biennium to administer the task force.

Status: Signed by the governor on May 30, 2019 ([Chapter 5](#)) MN Session Laws – 2019, 1st Special Session.

Cannabis Bills

Conversations about legalization of recreational cannabis and other cannabis reforms were plentiful at the capitol this session. Those talks are sure to continue as the proposals garner a lot of media attention as more and more states choose legalization.

Legislation was introduced to create a workgroup to look at blood concentration levels for people who are stopped for driving while impaired by a controlled substance. For driving under the influence of alcohol, it is clear throughout the country that a blood alcohol content of .08 is per se evidence of impairment. No such standard exists for other controlled substances such as marijuana or prescription medication. Had the legislation passed, the workgroup would seek to determine if different levels could be defined. ([HF 496](#))

Currently, cannabidiol, or CBD oil, is made from hemp and is sold throughout the state. A federal farm bill took hemp off the controlled substance list, but Minnesota law still considers it a controlled substance, even though it is being sold without consequence in most places in the state. A bill was discussed in the House Public Safety committee aimed at decriminalizing the possession and sale of CBD oil. ([HF 2541/SF 2496](#))

One cannabis bill that gained a lot of support sought to change the weight level classifications in criminal law for the sale and possession marijuana. It would increase the amount of marijuana possessed to be charged and convicted of a crime. The bill was an attempt to create a more gradual scale of consequences that is in line with the legislative intent behind decriminalizing possession of small amounts of marijuana. ([HF 2013/SF 2654](#))

A Cannabis Taskforce was proposed by the chair of the House Public Safety committee. The task force would study a multitude of issues related to cannabis, from reforming medical marijuana laws, to legalization, to traffic safety risks. The taskforce would advise the Legislature on the legalization, taxation, and regulation of the production, sale, and use of cannabis. A similar proposal was offered in the Senate as an amendment to a legalization bill that died in committee. ([HF 717/SF 897](#))

Status: Did not pass.

Firearms Bills ([HF 8](#), [HF 9/SF 436](#))

Two bills presented by the House proposed changes to laws related to firearms transfer, purchase, and possession. One bill required that private transfers of pistols and semiautomatic military-style assault weapons be preceded by a firearms eligibility background check of the person receiving the firearm. It had support from the Minnesota County Attorneys Association and the Minnesota Chiefs of Police Association, but was opposed by the Minnesota Gun Owners Caucus, among others. The second bill provided a procedure under which a chief law enforcement officer or his or her deputies or a city or county attorney could petition for an “extreme risk protection order” prohibiting the respondent from possessing firearms for a fixed period. In support of the bill were arguments about protecting victims of domestic violence and people contemplating suicide. In opposition, there were arguments about due process and concerns over the process of receiving a protection “ex parte” without a formal hearing including the presence of the gun owner. Ultimately, neither provision prevailed and were not adopted during the final omnibus negotiations.

Status: Did not pass.

DATA PRACTICES

Data Breach Notification Requirements ([HF 54/SF 248](#))

Currently, Minnesota statute requires that a data subject be notified that their data was breached if it was accessed, viewed, or obtained by an individual without the written consent of the data subject (a “Tennessee Warning”) and if that data was obtained with the intent to use it for a non-governmental purpose. HF 54/SF 248 removed the “intent” qualification, meaning that a data subject would be notified whenever their data was accessed by an unauthorized party, regardless of intent. While most counties tend to err on the side of notification to avoid liability, some counties expressed concerns that removing the “intent” piece would result in an unmanageable number of notifications. This bill language was included in the House Data Practices Omnibus bill (HF 631) but was not included in the Senate’s Data Practices Omnibus bill (SF 1263). The “intent” clause removal was also presented as an amendment to an amendment to the Public Safety Omnibus bill in the House (SF 802) and failed, leaving some question as to what will happen to this proposed change if the House and Senate Data Practices Omnibus bills are taken up again during the 2020 Legislative Session.

Status: Did not pass.

Transportation & Infrastructure

For additional information on this section, please contact Emily Murray, Policy Analyst, at 651-789-4339 or emurray@mncounties.org

Transportation funding was a hot topic of conversation during the 2018 campaign season. With the election of a new governor and a flip in the House majority from Republican to DFL, there was much speculation on what a transportation funding bill could look like, with the governor being vocal on his desire for an increase to the gas tax. Increased transportation funding was a top priority at AMC again this session. The AMC Transportation Working Group reconvened this year and put together a resolution for all counties to consider that highlighted the funding needs on our county system – we received 75 transportation funding resolutions from counties across the state. While a major transportation funding bill did not pass this year, the momentum continues to grow, and counties are hoping to play a significant role in the passage of a future funding bill.

Another top priority at AMC this session was support for funding the Border-to-Border Broadband Grant Program. Last session, there was \$15 million for the grant program wrapped into the Omnibus Supplemental Finance Bill, which was ultimately vetoed by Gov. Dayton. Additional funding is needed for this program so that we can meet our statewide speed goals by 2022 and 2026. Here is a look at how everything played out this session in the transportation and infrastructure world.

BROADBAND

Broadband Grant Program Funding ([HF 7](#)/[SF 9](#))

Funding for broadband infrastructure was an AMC priority again this year and counties experienced a big win on broadband funding this session after receiving no funding for the grant program last session. Even though \$15 million was included in end of session negotiations last year, the funding was wrapped into the final Omnibus Supplemental Finance Bill that was vetoed by the governor, and therefore the Border-to-Border Broadband Grant Program went unfunded in FY 2019.

At the end of last year, the Governor's Task Force on Broadband identified a need of \$70 million per biennia for the grant program until the state meets its broadband speed goals in 2022 and 2026. Typically, the program has been funded on an annual basis, while many have advocated for biennial funding in order for the proper planning to occur. It is a state goal that (1) no later than 2022, all Minnesota businesses and homes have access to high-speed broadband that provides minimum download speeds of at least 25 megabits per second and minimum upload speeds of at least three megabits per second; and (2) no later than 2026, all Minnesota businesses and homes have access to at least one provider of broadband with download speeds of at least 100 megabits per second and upload speeds of at least 20 megabits per second.

At the start of the 2019 session, both House and Senate leadership announced that broadband funding was one of their top ten priorities for the year. Additionally, the governor included \$70 million for the grant program in his budget proposal. Legislators on both sides introduced bills to fund the Minnesota Rural Broadband Coalition funding goal of \$70 million over the biennium in the first ten bill introductions – HF 7 was introduced by Rep. Rob Ecklund (DFL-Int'l Falls) and SF 9 was introduced by Sen. Mark Koran (R-North Branch).

After having a hearing on the House side in the Greater Minnesota Jobs and Economic Development Finance Division, the bill was sent to Ways and Means where it was amended onto the House Jobs Omnibus Finance Bill, [HF 2208](#), at the full funding ask of \$70 million over the biennium. On the Senate side, the bill was heard in the Senate Agriculture, Rural Development, and Housing Finance Committee. It was later wrapped into the committee's omnibus bill, [SF 2226](#), where it was included at \$30 million in one-time funding. Senate File 2226 had a hearing in the Senate Agriculture, Rural Development, and Housing Finance Committee on the same day as the Rural Broadband Coalition Day on the Hill. Coalition members testified in support of the funding but urged the committee to fully fund the request at \$70 million over the biennium. The Ag Committee Chair, Sen. Torrey Westrom (R-Elbow Lake), spoke in support of the full funding when the bill made its way to the Senate Finance Committee and he was hopeful that the number would increase during final negotiations.

As part of the final budget agreement, Gov. Walz, Speaker Hortman, and Majority Leader Gazelka included \$40 million for the Border-to-Border Broadband Grant Program over the next biennium. Most importantly, the grant program will receive multi-year funding for the first time, making this investment the most consistent funding that has been available to date. This gives interested applicants the ability to apply for the grant cycle in 2020 or 2021, allowing for more planning for broadband projects across the state.

Status: Signed by the governor on May 30, 2019 ([Chapter 1](#)) MN Session Laws – 2019, 1st Special Session.

TRANSPORTATION

Omnibus Transportation Finance Bill ([HF 1555](#)/[SF 1093](#))

As mentioned above, we heard a great deal about transportation funding during the 2018 election cycle. Governor Walz made it clear on the campaign trail that he supported an increase to the gas tax as the best way to address the transportation funding needs across the state. Senate Republicans, on the other hand, were vocal in their opposition to increasing the gas tax – referencing the November 2018 budget forecast of a \$1.5 billion surplus as evidence that the state had enough resources to prioritize transportation without any new fees/taxes. By the time the February forecast was released, the state surplus had dwindled to \$1 billion dollars, and it was around mid-February that Gov. Walz released his transportation funding proposal.

The governor's proposal was bold and included a 20-cent gas tax increase plus indexing, increased the motor vehicle sales tax, and included changes to the motor vehicle registration tax. One of the other big components of his proposal was to repeal the statutory dedication of the sales tax revenue from rental vehicles, the first \$32 million of the Motor Vehicle Leased Sales Tax (MVLST) revenue, and \$145.6 million per year in sales tax revenue from auto repair parts – all three funding sources that had been dedicated to transportation by the republicans in the 2017 transportation funding bill. His proposal also included a state-imposed metro area sales tax increase of 1/8 cent to pay for transit needs.

Republicans zeroed in on the governor's gas tax increase as well as the return of the transportation-related dollars to the general fund, focusing the attention on the fact that it would only net the equivalent of a 13-cent gas tax increase. While Senate Republicans continued to focus on the state's projected \$1 billion-dollar surplus, claiming now wasn't the time to increase taxes, their proposal did not include using any of the surplus money for transportation.

With the governor and the House DFL closely in line with their proposals, the Senate Republican proposal was vastly different. On the next page you will find a breakdown of the three initial transportation funding proposals:

	GOVERNOR	HOUSE	SENATE
GAS TAX	20 cent gas tax increase – phased in over two years + indexing	20 cent gas tax increase – phased in over four years (5 cents/year) + indexing	
TAB FEES	Increase the tax rate from 1.25% to 1.5% Changes the depreciation schedule Base tax fee is \$45	Increase the base rate from 1.25% to 1.5% Changes the depreciation schedule Base tax fee is \$10	
SALES TAX	Increase the MVST from 6.5% to 6.875%	Increase the MVST from 6.5% to 6.875% Changes the distribution from 60% HUTDF and 40% Transit Assistance Fund to: <ul style="list-style-type: none"> • 57% HUTDF • 43% Transit Assistance Fund <ul style="list-style-type: none"> ○ 34.5% Metro ○ 8.5% Greater MN 	
METRO AREA SALES TAX	0.125% Sales and Use Tax in the 7 County Metro Area – state imposed	0.5% Sales and Use Tax in the 7 County Metro Area – state imposed 50% to Transit System Operation & Capital 50% to the Transportation Advisory Board <ul style="list-style-type: none"> • 30% TAB Transit Grants • 30% TAB Roadway Grants • 10% TAB Non-Motorized Grants • 30% TAB Flexible 	
BONDING	\$2 billion in Trunk Highway Bonds over 8 years starting in 2022	\$300 million Corridors of Commerce	
GENERAL FUND	Returns the Auto Parts Sales Tax, 9.2% Vehicle Rental Tax, and 6.5% Sales Tax on Motor Vehicle Rentals back to GF	Returns the Auto Parts Sales Tax, 9.2% Vehicle Rental Tax, and 6.5% Sales Tax on Motor Vehicle Rentals back to GF MVLST Changes The first \$32 million will go back into the GF and redistributes the rest: <ul style="list-style-type: none"> • 75% Metropolitan Counties <ul style="list-style-type: none"> ○ Hennepin at 20% pop ○ Ramsey at 35% pop • 10% Greater MN Transit • 15% Small Cities 	Keeps the Auto Parts Sales Tax, 9.2% Vehicle Rental Tax, and 6.5% Sales Tax on Motor Vehicle Rentals that was statutorily dedicated to the HUTDF in the 2017 Transportation Bill Takes general fund money from the passenger rail program and elsewhere and includes \$750,000 for small cities in first year, \$500,000 in second year
ELECTRIC VEHICLES	Increases the EV surcharge by \$25 dollars, making it a total of \$100/vehicle – additional \$25 goes to EV infrastructure	Changes the current EV surcharge distribution – amount remains the same at \$75/vehicle, but half goes to HUTDF, half goes to EV infrastructure	Increases the EV surcharge to \$200/vehicle and adds a plug-in hybrid vehicle surcharge at \$100/vehicle Adds a 5 cent/kilowatt hour tax on electricity delivered to an EV at a public charging station after 1/1/2020 and a \$200 annual fee for charging stations installed before 1/1/2020

When the conference committee process began, the House and Senate were about as far apart as it comes with their respective proposals. Despite the funding differences, there were also several policy differences between the two bills. The conference committee met several times to try and address the policy concerns. Both bills included policy language that counties had concerns with, including but not limited to those mentioned below.

The Senate bill included a provision that would exempt sewage septic tank trucks from weight limits and would not require a special permit. This was a follow up proposal from last session and was originally introduced as a standalone bill. While counties understand that there are certain situations that require septic trucks to haul additional weight during emergencies, we would prefer the ability to permit these heavier loads at the local level and would also prefer a definition for emergency situations included in the provision. The governor has issued executive orders on an annual basis for these additional loads, but the language included in the Senate bill went farther than what is typically allowed under executive order.

Provisions relating to speed limits were included in both the House and Senate bills. While they did not specifically affect county roads, the language set a bad precedent by removing authority from MnDOT for establishing speed limits as well as removing the requirement for a speed study. The Senate provision initially allowed only cities of the first class to lower speed limits to 25 mph on city streets, but it was amended to allow all cities the ability to do this. The House provision expanded the definition of a residential roadway under statute, allowing for more city streets to have speed limits set at 25 mph.

The Senate bill also included language to extend the moratorium on MnDOT requiring permits for mowing and haying on state highway right-of-way. The original moratorium was established in 2017 and authorized a stakeholder group to meet and discuss ways to amend the MnDOT permitting process and the statutes governing mowing. Last session, the Legislature extended the moratorium for another year – until the end of April 2019 – and the provision in the Senate omnibus transportation bill would have extended the moratorium until 2020.

Finally, the Senate bill included language that expanded the definition of “farm truck” to include pickup trucks when factoring vehicle registration fees, which would reduce the amount of revenue going into the Highway User Tax & Distribution Fund (HUTDF) due to the lower amount of vehicle registration fees charged to these vehicles. This reduction was greater than the proposed growth in revenue coming from the increased electric vehicle surcharge and the newly created plug-in hybrid vehicle surcharge included in the Senate bill, thereby resulting in a net loss of revenue to the HUTDF.

Once the conference committee had vetted most of the policy provisions, they waited for a global agreement regarding funding. On the night before the final day of session, Gov. Walz, Speaker Hortman, and Majority Leader Gazelka announced their global agreement, which included no new funding for transportation. There was no gas tax included as part of the final budget agreement, nor was there any other increase in constitutionally dedicated funding for transportation. The bill does not change current funding for Greater Minnesota transit. For Metropolitan Transit, there is a one-time funding increase for Metro Mobility and the bill separates the two base general fund appropriations to the Council – one for Metro Mobility (\$137.5 million) and one for Transit System Operations (\$65.3 million).

\$93.454 million for transportation in FY 2020-2021:

- Funding for Metro Mobility in FY 2020 is \$23.190 million. Additional \$13 million in FY 2021 for Metro Mobility contingent upon closing balance for FY 2019 exceeding February forecast estimated closing balance.
- \$13 million for Deputy Registrar reimbursement related to MNLARS.

- \$55.67 million for the MNLARS replacement system; and fees for Department of Vehicle Services (DVS) staffing and systems maintenance and operations.
- \$20 million for Disaster Assistance Contingency Account appropriation contingent upon closing balance for FY 2019 exceeding February forecast estimated closing balance.

Policy provisions included in the bill:

- Expands the statutory definition found in 169.011 of a “residential roadway,” thereby increasing the number of roads in a city that can have speed limits as low as 25 mph without requiring a traffic and engineering study and MnDOT approval.
- Allows all cities to establish speed limits on city streets that differ from the speed limits set in statute without conducting a traffic and engineering study. This does not apply to town roads, county highways, or trunk highways in the city.
- Includes language to clarify the definition of “qualifying agricultural products” for purposes of a special overweight vehicle permit.
- Modifies exceptions to penalties and required registration for some overweight vehicles transporting unfinished forest products, which includes having a variance calculation apply throughout the year.

Policy provisions NOT included in the bill:

- Farm truck classification.
- Sewage septic tank truck weight increase.
- Ditch mowing permit moratorium extension.

While there was no increase in the three constitutionally dedicated transportation taxes (fuel tax, registration tax, sales tax) as proposed by the governor and the House DFL, the sales tax revenue from auto parts and vehicle rentals that was statutorily dedicated to the HUTDF in the 2017 Transportation Bill will continue going to transportation. The dedication of the sales tax on auto repair parts is capped at \$145.6 million per year, which is estimated to be about half of the total amount brought in by that sales tax, and the phase-in of that full amount will go into effect in the next biennium. In addition, the first \$32 million from the MVLST will continue going to transportation and will remain under the current allocation, which also includes funding for the local bridge account. The current allocation of this revenue is as follows:

- 13% Local Bridge Program.
- 11% HUTDF.
- 38% to Greater MN Transit.
- 38% to five Metro Counties.

The continuation of the Motor Vehicle Sales Tax (MVLST) allocation as outlined above is important to note since the Legislature failed to pass a general obligation bonding bill during special session. The local bridge program is projected to receive \$26.7 million from MVLST revenue in the next biennium, which will go far to address the list of bridges that are seeking that funding. Though the final transportation bill can best be described as maintaining the status quo, there will be an additional \$64 million per year in County State Aid Funds (CSAH) over the previous biennium based on these statutory dedications passed in 2017 and natural growth in the constitutionally dedicated revenue sources.

Status: Signed by the governor on May 30, 2019 ([Chapter 3](#)) MN Session Laws – 2019, 1st Special Session.

BONDING

The 2018 bonding bill was a major success for county priorities and included funding for regional mental health crisis facilities and record funding for transportation-related programs, including the Local Road Wetland Replacement Program (LRWRP), the Local Road Improvement Program (LRIP), and the Local Bridge Replacement Program (LBRP). With 2019 being a budget year and not a bonding year, it was unclear whether there would be a substantial bonding bill this year or not.

With the change in majority in the House, the Capital Investment Committee is now chaired by Rep. Mary Murphy (DFL-Duluth). The House committee met regularly throughout session, while the Senate Capital Investment Committee did not meet once.

The governor released his 2019 Capital Budget Recommendations at the end of February, which included a \$1.27 billion proposal to invest in community infrastructure projects across the state. His recommendations included \$100 million in general obligation (GO) bonds for LRIP and \$100 million in GO bonds for LBRP as well as \$10 million in GO bonds for the LRWRP. By mid-April the House Capital Investment Committee unveiled its bonding bill, totaling a whopping \$1.5 billion in general obligation bonding and includes totals similar to the governor's recommendations for the three programs listed above.

By the final week of the regular session, there still hadn't been any movement on bonding. Part of the final agreement announced by the governor, speaker, and majority leader on the night before the last day of the regular session would include a \$500 million GO bonding bill. Of that \$500 million, it would be broken down between \$440 million in GO bonds and \$60 million in housing infrastructure bonds. Even though nothing had been released during the few days after the regular special session ended and the one-day special session began, we were still hopeful to see a bonding bill in the final hours of the special session. While rumor has it that legislators were close to finding agreement on how to allocate the \$440 million in GO bonds, special session came and went without an agreement. The Legislature did pass House File 12, [MN Session Laws – Chapter 13, 2019 1st Special Session](#) – which provides \$60 million in funding for housing infrastructure.

Because there was no bonding bill, all three transportation-related programs that are important to counties did not get additional funding this year. As mentioned above, the 2017 Transportation Bill included MVLST funding for the local bridge program that was not eliminated in this year's transportation bill, which includes \$26.7 million going to the LBRP over the biennium. There will be no additional funding for the LRIP or the LRWRP this year.

Of most concern is the lack of funding for the Local Road Wetland Replacement Program. We have fought hard over the past several years to get additional funding on a yearly basis for this program. With no bonding bill in 2016 – during a bonding year – we asked the Legislature for an emergency \$5 million from the general fund at the beginning of the 2017 Session and then received another \$5 million in bonding that year. Last year's bonding bill included \$6.7 million for the program. We were able to provide an informational presentation to the House Capital Investment Committee this year and also tried to separately push for one-time cash for the program again by introducing [SF 2438](#) (Lang) and [HF 2330](#) (Hansen), which would have provided \$10 million from the general fund to the program in FY 2020. Despite not receiving additional funding this year, we are hopeful that based on the governor's capital recommendations and what was included in the House bonding bill that we will see significant GO bonds for the program in next year's bonding bill.

Status: Did not pass.

OTHER LEGISLATION

Threatened & Endangered Species Protections Clarification ([HF 1713](#)/[SF 1986](#))

Since January 2017, AMC and the Minnesota County Engineers Association (MCEA) have been meeting with both the Minnesota Department of Transportation (MnDOT) and the Minnesota Department of Natural Resources (DNR) regarding the interpretation of Minnesota Statute 84.0895, which has to do with the protection of threatened and endangered species. At that time, it was brought to our attention that the DNR was requiring certain agencies to obtain a permit and potentially pay mitigation fees for highway or bridge work that impacted any threatened or endangered plants. The statute has existed since the 1970s, but not until recently has the DNR required MnDOT and some other agencies to mitigate takings of these plants caused or potentially caused by road and bridge projects. There is not a formal established permit process, nor has one been established for these projects in the past.

In one of our first meetings with the DNR, the main concern they identified was that there was no definition of “roadways” included in Minn. Stat. 84.0895. They suggested a few statutory definitions, including the definition of public road right-of-way found in Minn. Stat. 84.92. When MCEA introduced legislation during the 2018 session seeking to clarify the exemption, we included this definition from 84.92. While the DNR was not in full support of the legislation at first, by the end of the 2018 session we had agreed on compromise language. The compromise language was included in the 2018 Omnibus Supplemental Finance Bill, which was ultimately vetoed by Gov. Dayton.

At the beginning of the 2019 legislative session, it was agreed to by AMC, MCEA, DNR, and MnDOT that the DNR would introduce our compromise language from the previous session as a standalone bill. [HF 1713](#) was introduced by Rep. Kelly Morrison (DFL-Deephaven) and [SF 1986](#) was introduced by Sen. Carrie Ruud (R-Breezy Point). The bill had hearings in both the House and Senate Environment and Natural Resources policy committees. On the Senate side, the language was included in the Omnibus Environment and Natural Resources Bill, but on the House side it remained a standalone bill and was not included in the House Omnibus Environment and Natural Resources Finance Bill. Unfortunately, there was opposition from a few environmental groups this year that hadn’t raised any concerns in 2018. This opposition caused House DFL members to become cautious of supporting the compromise language. Going into the conference committee process, we urged the House DFL to support the Senate’s inclusion of this language. We were very pleased to see that the House agreed to accept the Senate language when the final conference committee report was released.

It is important to note that this compromise language provides clarification for both road authorities and DNR staff on what land is included in the exemption, saving time and taxpayer dollars on existing road construction and maintenance projects. Additionally, this exemption *only* applies to existing public road right-of-way and adding this statutory definition does *not* expand our current exemption. It simply clarifies what areas are included in the exemption.

Finally, we are working together with DNR on a process for new construction and right-of-way not included in this exemption. The work we have done jointly over the past few years has increased our communication and identification of these plant species across the state and it is important to counties that we continue to protect threatened and endangered plant species along roadsides.

Status: Signed by the governor on May 30, 2019 ([Chapter 4](#)) MN Session Laws – 2019, 1st Special Session.

Contract Retainage ([HF 878](#)/[SF 947](#))

Contract retainage is common practice in the private and public sectors, where a portion of the agreed-upon contract price is withheld until the work is complete to assure that the general contractor or subcontractor has satisfied their obligations. Currently, the amount of retainage that can be withheld during a building or construction project is five percent. Counties, cities, and other local units of government use this tool to ensure compliance with contractual obligations. Contract retainage has been a hot topic of conversation in the last several legislative sessions. AMC and MCEA participated in a retainage stakeholder group in 2016, and there have been many proposed legislative changes in the last few years with the discussion focused around public owners, subcontractors, and general contractors.

This year, [HF 878](#) was introduced by Rep. Tim Mahoney (DFL-St. Paul) and [SF 947](#) was introduced by Sen. Jason Rarick (R-Brook Park) to modify the building and construction contract retainage requirements in an attempt to assist subcontractors. Public owners, including counties, were opposed to the bill as originally introduced, but continued to work with the authors and the subcontractors on the bill language throughout session. In the end, the retainage language was added to the Omnibus Jobs, Energy, and Telecommunications Finance Bill, [HF 2208](#). Retainage on a building and construction contract still may not exceed five percent – this language was not changed – but there were other significant changes made to the retainage statute. Some of the highlights of the final agreement include the following:

- Public contracting agency must release all retainage no later than 60 days after substantial completion.
- Upon written request of a subcontractor, the public contracting agency shall notify the subcontractor of a progress payment, retainage payment, or final payment made to the contractor
- After substantial completion, a public contracting agency may withhold no more than:
 - 250% of the cost to correct or complete work known at the time of substantial completion
 - 1% of the value of the contract or \$500, whichever is greater, pending completion and submission of all final paperwork by the contractor or subcontractor
- For construction, reconstruction, or improvement of streets and highways, including bridges, substantial completion means the date when construction-related traffic devices and ongoing inspections are no longer required.
- For a project funded with federal or state aid, the public contracting agency is not required to pay that portion of the contract funded by federal or state aid until the federal or state aid payments have been received.

In the end, counties remained neutral on these changes and public owners were able to have a strong voice in the negotiation process.

Status: Signed by the governor on May 30, 2019 ([Chapter 7](#)) MN Session Laws – 2019, 1st Special Session.

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