2017 Legislative Regular Session Overview

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- General Government & Taxes
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2017 Legislative Regular Session Overview

For counties, just about every aspect of our business was affected in one way or another in 2017. Read on for an overview of the regular session, discussion regarding a potential special session, and details broken down by issue area.

General Overview

The 2017 Session was one that included many twists and turns and there are still issues left unresolved to date.

Early in session, the Legislature set a tone of timeliness and productivity, announcing that committee deadlines would be earlier than usual to give the budget process plenty of time to play out. Bills met deadlines, but felt largely on hold as legislative leadership and Governor Mark Dayton negotiated an overall spending framework. Despite a healthy budget surplus, or perhaps due to it, the Legislature and the governor had vastly differing views about how much to dedicate to spending, cuts, and reserves. In fact, it took some time for the House and the Senate to come to agreement between themselves, despite the single party makeup of leadership.

Once the House and Senate agreed upon a framework among themselves, conference committees commenced work quickly and sent a round of budget bills to governor which were vetoed almost immediately. This started a second round of negotiations that were contentious and ultimately resulted in a special session being called immediately after the regular session adjourned. After three days, all the budget bills were out of the Legislature and put in the hands of the governor.

Just after Memorial Day, the governor held a press conference announcing that he would sign all the budget bills. He also invoked his authority to line-item veto the operating budgets for the Minnesota House and the Minnesota Senate. The governor said he did this in response to a provision in the State Government Finance bill that would have withheld funding for the Department of Revenue unless the tax bill was enacted (thus intertwining the two). The governor said that this provision regarding the Department of Revenue was inserted into the budget bill without his prior knowledge.

The governor has stated he will call the Legislature back into session and restore their funding if they agree to address his concerns with the tax bill relating to reductions in the tobacco tax, the estate tax, and the commercial industrial property tax. He also wants to eliminate a provision in the Public Safety bill prohibiting undocumented immigrants from obtaining driver’s licenses and a provision in the E-12 Education bill relating to a change to Minnesota’s teacher licensure standards.

How Counties Fared

Overall, when all is said and done, counties fared well in the 2017 session. We had several wins, and many issues that we felt weren’t as successful had the potential to be much worse. Perhaps most disappointing was the health and human services omnibus bill, released 15 hours before its passage during Special Session. The almost 700-page bill contains several provisions that impact counties; and caused a stir over a never-before-seen provision in MNCHOICES: a $22 million cost shift to counties. Despite AMC’s efforts, this provision was included in the final bill signed by Governor Dayton. Counties will continue to express concern over these continuing cost shifts, as they are an ongoing issue.

| Number of House bill introductions | 2722; 8* |
| Number of Senate bill introductions | 2243 |
| Total bills sent to the governor | 86; 13* |
| Bills that became law | 81 |
| Bills vetoed by the governor | 18; 2** |

*Special Session  **Line Items Vetoed within Signed Bills
Counties can, however, celebrate the major successes that were included in other budget and policy bills. The tax bill includes County Program Aid, Indian Child Welfare Act Aid, Buffer Aid, and PILT increases. Counties received $7 million in one-time funding for the replacement of election equipment through a grant program that will be administered through the Secretary of State's Office (with local match). The tax bill also includes the lot-split policy language that has been on AMC’s list of to-dos for several years. The omnibus elections bill, non-controversial and passed with bipartisan votes, outlines a transition to five uniform election dates and special legislation for six counties to appoint one or more of their row officers (auditor/treasurer/recorder).

The Special Session transportation omnibus bill reflects a budget target of $300 million. The negotiated agreement for the end of session bonding bill totals $988 million in general-obligation bonding for public works projects across the state. There are both funding and policy wins within environment and natural resources, including $18 million for Riparian Protection (buffer) Aid for FY18-19, for counties and watershed districts that opt to enforce the buffer law.

Broadband funding is a priority item for AMC; the jobs and economic development bill contains $20 million in one-time funding. This is less than Gov. Dayton’s request, but an increase from the $15 million included in the first budget bill. The Broadband Development Office also received an appropriation of $500,000. In public safety, funding was increased for Community Corrections Act Counties, County Probation Officer Counties, and the DOC Field Services unit by roughly 3.6%. This amounts to $2.1 million for the CCA subsidy and $230,000 for the CPO reimbursement. There was not a direct appropriation for the Disaster Aid Contingency Account, however there was language that directed a transfer in to the account if there is a positive fund balance at the end of the current biennium (ending June 30, 2017). That transfer to the fund is $10 million or the amount of the balance, whichever is less. With these highlights in mind, a full accounting of what happened during the 2017 session follows.

**Looking Ahead**

With the budget bills in place, the governor’s veto of the Legislature’s funding has yet to be reconciled. The Legislature has signaled that they may sue the governor over this action. Short of court action, there will need to be a special session, which has the potential to put any issue back in play. So, while we consider most of the budget, tax, and bonding issues resolved, we will need to continue to track the potential for changes in a special session.

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**AMC Priority Items Scorecard 2017**

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<thead>
<tr>
<th>Category</th>
<th>Success</th>
<th>Partial Success</th>
<th>Disappointment</th>
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<tbody>
<tr>
<td>County Program Aid</td>
<td>+</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Transportation Funding</td>
<td>+</td>
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<td>Mental Health in Jails and the Community</td>
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<tr>
<td>Buffer Aid</td>
<td>+</td>
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<tr>
<td>Determining Fiscal Impact on Counties</td>
<td>-</td>
<td></td>
<td></td>
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<tr>
<td>METS Funding</td>
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<tr>
<td>Local Road Wetland Replacement</td>
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<tr>
<td>Broadband Development Funding</td>
<td>+</td>
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Updated June 30, 2017
Environment & Natural Resources

For additional information on this section, please contact Jennifer Berquam, Policy Analyst, at 651-789-4322 or jberquam@mncounties.org.

In the environment and natural resources area this session, counties were quite successful overall. Five legislative priorities for 2017 were selected by the AMC Environment and Natural Resources Policy Committee during the Fall Policy Conference; of these, four were enacted.

The five priorities identified by the committee include:

- Riparian Protection (Buffer) Aid: Passed into law in the amount of $8,000,000 in FY18 and $10,000,000 in FY19 and thereafter.
- State funding for projects identified in comprehensive watershed plans developed under the One Watershed One Plan process: Passed into law in the amount of $4,875,000 in each fiscal year.
- Subdivision review and approval authority for county planning and zoning offices: Passed into law.
- Demolition land disposal facilities permitting: Five-year extension passed into law.
- Increased state funding for county feedlot program: Did not pass.

This summary provides additional information on the priorities listed above, as well as other county-related environment and natural resources topics that were discussed at the Legislature this session. The majority of the provisions in the summary were included in three bills that passed during the regular session: the omnibus environment and natural resources bill, the legacy bill, and the environmental trust fund appropriations bill.

ANIMAL AGRICULTURE

County Feedlot Program (SF 844, Article 1, Section 2, Subd. 8(a))

The omnibus environment and natural resources bill appropriates $1,959,000 to the MPCA each fiscal year for grants to counties to administer the county feedlot program (this is the base funding level). A bill was introduced this session (SF 2114/HF 2417) to increase the funding to $2,500,000 per year but did not get a hearing. We will continue to work on a funding increase for the county feedlot program in future years.

Status: Signed into law by the governor on May 30, 2017 (Chapter 93).

Feedlots under 300 Animal Units (SF 844, Article 1, Section 4(c))

The omnibus environment and natural resources bill appropriates $260,000 each fiscal year to BWSR for feedlot water quality cost share grants for feedlots under 300 animal units and nutrient and manure management projects in watersheds where there are impaired waters.

Status: Signed into law by the governor on May 30, 2017 (Chapter 93).

Open Air Swine Basins (SF 844, Article 2, Section 134)

The omnibus environment and natural resources bill includes a provision to extend the ban on new open air swine basins for another five years (until 2022).

Status: Signed into law by the governor on May 30, 2017 (Chapter 93).
**Nuisance Lawsuits** *(HF 1717, HF 1221, HF 1026, SF 1015 and SF 901)*

Legislation was introduced and heard this session providing feedlots with protection from nuisance liability. There were a few different versions of bills on this topic, including a study examining the impact of nuisance lawsuits on agriculture in Minnesota, but ultimately nothing passed this session relating to feedlots and nuisance lawsuits.

*Status: Did not pass*

**Environmental Review/Public Notice Requirements** *(SF 844, Article 2, Section 137)*

A bill was introduced this session *(SF 1016/HF 1456)* that would modify the current environmental assessment worksheet (EAW) requirements, stating that an EAW is not required for an animal feedlot facility with a capacity of less than 2,000 animal units or an expansion of an existing animal feedlot facility with a total cumulative capacity of less than 2,000 animal units. Originally, the bill also required, to the extent practicable, the responsible governmental unit to include a public notice and comment period for the purpose of environmental review that is concurrent with any public notice and comment period for the same animal feedlot facility for the purpose of obtaining a conditional use permit.

Based on concerns from a few counties, the bill author agreed to remove the second portion of the bill. Neither provision from the original bill passed this session. However, this section of law has been amended to require all agencies having jurisdiction over a permit identified in the draft EAW scoping document begin reviewing any permit application upon publication of the notice of preparation of the environmental impact statement (EIS).

*Status: Signed into law by the governor on May 30, 2017 (Chapter 93).*

**Benson Biomass Facility** *(SF 1456, Article 6, Section 26, Article 2, Section 137 and Article 10, Section 3, Subd. 1(f))*

The omnibus jobs, economic development, commerce and energy bill includes a few provisions relating to the Benson Biomass Facility that uses turkey litter to generate electricity. The bill appropriates $150,000 in FY18 to conduct a Biomass Facility Closure Economic Impact Study that must be completed by February 2018. The bill also includes language providing grants for economic development purposes for the city of Benson if the facility does close.

*Status: Signed into law by the governor on May 30, 2017 (Chapter 94).*

**AQUATIC INVASIVE SPECIES (AIS)**

**County AIS Prevention Aid**

No change was made to the County AIS Prevention Aid this year in the omnibus tax bill, so the base amount of $10 million per year will be available. This program was established through legislation in 2014 and provides funding to counties twice per year, at the same time as other aid payments, allocated through a formula based 50 percent on each county’s share of boat launches and 50 percent based on each county’s share of boat trailer parking spaces.
Department of Natural Resources Appropriations (SF 844, Article 1, Section 3)

The omnibus environment and natural resources bill appropriates funding to the DNR in the amount of $6.448 million each fiscal year for management, public awareness, assessment and monitoring research, and water access inspection to prevent the spread of invasive species; management of invasive plants in public waters; and management of terrestrial invasive species on state-administered lands. An additional $1.718 million each fiscal year is appropriated to the department for enforcement efforts to prevent the spread of AIS.

Status: Signed into law by the governor on May 30, 2017 (Chapter 93).

Minnesota Aquatic Invasive Species Research Center (SF 550, Section 2, Subd. 6(a) and SF 844, Article 1, Section 3)

$2.7 million was appropriated from the Environment and Natural Resources Trust Fund in FY17 to the University of Minnesota to support the Minnesota Aquatic Invasive Species Research Center in finding solutions to Minnesota’s AIS problems through research, control, prevention, and early detection of existing and emerging AIS threats. An additional $410,000 is appropriated each fiscal year to the DNR for grants to the AIS Research Center to prioritize, support, and develop research-based solutions that can reduce the effects of AIS.

Status: Signed into law by the governor on May 30, 2017 (Chapter 96 and Chapter 93).

BUFFERS

Riparian Protection (Buffer) Aid (SF 844, Article 1, Section 11 & Article 2, Section 146 and 2017 1st Special Session HF 1, Article 4, Sections 24 & 25)

The omnibus environment and natural resources bill appropriates $2 million each year for riparian protection (buffer) aid payments to counties and watershed districts that accept jurisdiction to enforce the buffer law. The omnibus tax bill appropriates an additional $6 million for FY18 and $8 million for FY19 for this program and it will be funded in the amount of $10 million per year going forward.

Both bills also include policy language establishing the program and providing the mechanism for distributing the riparian protection aid payments to counties and watershed districts who have affirmed their jurisdiction to enforce the buffer law. The formula to determine a county’s proportion of the aid will be based on class 2A agricultural land, miles of public watercourses, and miles of public drainage system ditches in each county. Aid to a county will be no greater than $200,000 and no less than $50,000 per year. If a watershed district located within the county has affirmed jurisdiction, the county shall pass on to the watershed district their portion of the riparian protection aid. If a county or watershed district does not opt to enforce the buffer law, that portion of the aid payment will go to BWSR for enforcement activities.

The riparian protection aid will be available for the first time in July 2017 and payments will be made to counties who have opted to enforce the buffer law at the same time as other aid payments.

Status: Signed into law by the governor on May 30, 2017 (Chapter 93 and 1st Special Session: Chapter 1).
**Changes to Buffer Law** *(SF 844, Article 2, Sections 105, 106 & 150)*

A few policy provisions making changes to the buffer law are in the omnibus environment and natural resources policy bill, including:

- Definition of public waters clarified to mean public waters that are on the public waters inventory.
- Alternative practices section of the law clarified to include common alternative practices adopted and published by BWSR or practices based on local conditions approved by the SWCD that are consistent with the Field Office Technical Guide.
- Requirement that buffers be planted using only seed mixes verified by MDA to prevent contamination with Palmer amaranth or other noxious weed seeds.
- Allowance of a waiver to be granted until July 1, 2018 to landowners who have filed parcel-specific riparian protection compliance plans with the SWCD by November 1, 2017.

*Status:* Signed into law by the governor on May 30, 2017 *(Chapter 93).*

**Buffer Maps** *(HF 707, Article 2, Section 6(i))*

The legacy bill appropriates $100,000 per year to the DNR for maintenance and updates to buffer maps and for technical guidance on buffer map interpretation to local units of government for implementation of buffer requirements.

*Status:* Signed into law by the governor on May 30, 2017 *(Chapter 91).*

**BWSR Buffer Programs** *(HF 707, Article 2, Section 7)*

The legacy bill appropriates funding to BWSR for a few different programs relating to buffers, including:

- $2,500,000 each year to provide assistance, oversight, and grants for supporting local governments in implementing and complying with riparian protection and excessive soil loss requirements.
- $425,000 each year for a program to systematically collect data and produce county, watershed, and statewide estimates of soil erosion caused by water and wind.
- $5 million the first year for SWCDs for cost-sharing contracts with landowners or authorized agents to implement riparian buffers or alternative practices on public waters or public ditches consistent with the Minnesota Buffer Law. Of this amount, up to $2.5 million may be targeted outside the 54-county Conservation Reserve Enhancement Area.

*Status:* Signed into law by the governor on May 30, 2017 *(Chapter 91).*

**CONSERVATION RESERVE ENHANCEMENT PROGRAM (CREP)** *(HF 707, SF 550, 1st Special Session HF 5)*

Earlier this year Minnesota entered into an agreement with the US Department of Agriculture to obtain $350 million in federal funding for the Minnesota Conservation Reserve Enhancement Program (CREP). The targeted area for the program is 60,000 acres in 54 counties in southern and western Minnesota. Projects eligible through the Minnesota CREP include buffer creation, wetlands restoration, and wellhead protection for drinking water.
To leverage the full $350 million in federal funds, the state must commit $150 million, of which $54.81 million has already been appropriated in past legislative sessions. This year, an additional $6.481 million was appropriated for the state match for CREP ($31.981 million in the legacy bill, $19.5 million in the environment and natural resources trust fund bill, and $10 million in the capital investment bill).

**Status:** Signed into law by the governor on May 30, 2017 (Chapter 91, Chapter 96; 1st Special Session: Chapter 8).

## COUNTY FAIRS

**Grants and Payments** *(HF 1545, Article 1, Section 2, Subd. 5(a) and HF 707, Article 4, Section 2, Subd. 10)*

The omnibus agriculture bill appropriates $1 million each fiscal year to the Minnesota Department of Agriculture (MDA) for distribution to each of the state’s county fairs to preserve and promote Minnesota agriculture. The bill also appropriates $474,000 each fiscal year for payments to county and district agricultural societies and associations. These payments are the amount of aid from the state for an annual fair held in the previous calendar year.

The legacy bill appropriates $150,000 each fiscal year to MDA for grants to county agricultural societies to enhance arts access and education and to preserve and promote Minnesota’s history and cultural heritage represented in its county fairs.

**Status:** Signed into law by the governor on May 30, 2017 (Chapter 88 and Chapter 91).

## COUNTY PARKS AND TRAILS FUNDING

**Grants through the DNR** *(SF 844, Article 1, Section 3)*

The omnibus environment and natural resources bill included appropriations to the DNR for grants to counties for the following parks and trails and recreational enforcement purposes:

- $1,005,000 each year for park and trail grants to LGUs on land to be maintained for at least 20 years.
- $250,000 each year for matching grants to local parks and outdoor recreation areas.
- $250,000 each year for matching grants for local trail connections.
- $1,082,000 each year for grants to counties for boats and water safety.
- $315,000 each year for grants to local law enforcement agencies for snowmobile enforcement activities.
- $510,000 each year for grants to local law enforcement agencies for off-highway vehicle enforcement and public education activities based on off-highway vehicle use in the county.

**Status:** Signed into law by the governor on May 30, 2017 (Chapter 93).
Parks and Trails Fund Appropriations (Legacy) *(HF 707, Article 3)*

The legacy bill appropriates the following amounts for parks and trails in Minnesota:

- $16.584 million in FY18 and $18.891 million in FY19 to the DNR for state parks, recreation areas and trails.
- $8.293 million in FY18 and $9.445 million in FY19 for grants for parks and trails of regional significance outside the seven-county metropolitan area.
- $16.584 million in FY18 and $18.891 million in FY19 to the Metropolitan Council for parks and trails.

*Status: Signed into law on the governor on May 30, 2017* *(Chapter 91).*

**DRAINAGE**

Drainage Work Group *(SF 844, Article 1, Section 4(h))*

The omnibus environment and natural resources bill includes a $166,000 appropriation each year to BWSR to provide technical assistance to local drainage management and to coordinate the stakeholder drainage work group. The bill also includes language requiring the work group to evaluate and make recommendations to accelerate drainage system acquisition and establishment of ditch buffer strips and report its findings to the Legislature by February 1, 2018.

*Status: Signed into law by the governor on May 30, 2017* *(Chapter 93).*

Conservation Drainage Program *(HF 707, Article 2, Section 7(j))*

The legacy bill appropriates $750,000 each year to BWSR for technical assistance grants to LGUs for the conservation drainage program in consultation with the drainage work group, including projects to improve multipurpose water management.

*Status: Signed into law by the governor on May 30, 2017* *(Chapter 91).*

Public Drainage Records Modernization *(SF 550, Article 2, Subd. 3(g))*

The environment and natural resources trust fund bill appropriates $540,000 in FY18 to BWSR to facilitate statewide modernization of public drainage records and integrate new specifications into existing drainage records modernization guidelines through matching cost-share grants to drainage authorities. This is phase II of the project.

*Status: Signed into law by the governor on May 30, 2017* *(Chapter 96).*

**EMERALD ASH BORER** *(SF 550, Section 2, Subd. 6(b))*

The environment and natural resources trust fund bill appropriates $729,000 in FY18 to the MDA in cooperation with the University of Minnesota to implement biocontrol of emerald ash borer using a newly approved parasite wasp, to assess the impact of the statewide program, and to engage citizen volunteers.

*Status: Signed into law by the governor on May 30, 2017* *(Chapter 96).*
ENVIRONMENTAL REVIEW

Mandatory Environmental Assessment Worksheets and Environmental Impact Statement Categories (*SF 844, Article 2, Section 138*)

The omnibus environment and natural resources bill includes policy language requiring, by December 1, 2018 and every three years after, the EQB, PCA DNR and DOT to consult with political subdivisions and provide a list of mandatory EAW and EIS categories for which the agency or a political subdivision is designated as the responsible government unit to the chairs of the House and Senate environment committees, and recommend any changes.

*Status: Signed into law by the governor on May 30, 2017 (Chapter 93).*

FORESTRY

**Forestry Study and Reforestation** (*SF 840, Article 1, Section 3, Subd. 4(e) & (f))

The omnibus environment and natural resources bill appropriates $500,000 in FY18 for a study of the ability to sustainably harvest at least 1,000,000 cords of wood annually on state-administered forest lands and appropriated $2,000,000 each fiscal year for state forest reforestation.

*Status: Signed into law by the governor on May 30, 2017 (Chapter 93).*

**Forest Roads** (*SF 840, Article 1, Section 3, Subd. 4(h-j))

The omnibus environment and natural resources bill appropriates $500,000 each fiscal year for maintenance on state forest roads, $500,000 for maintenance on county forest roads and $500,000 for private forest management.

*Status: Signed into law by the governor on May 30, 2017 (Chapter 93).*

**State Timber Sales** (*SF 840, Article 2, Section 144*)

The omnibus environment and natural resources bill includes a provision authorizing private sale without advertising of up to 500 cords in appraised volume of state timber. Current law allows this for amounts of timber not to exceed $3,000 in value.

*Status: Signed into law by the governor on May 30, 2017 (Chapter 93).*

NATURAL RESOURCES BLOCK GRANT (NRBG) (*SF 844, Article 1, Section 4*)

The omnibus environment and natural resources bill includes a $3,423,000 appropriation each year to BWSR for natural resources block grants to local governments. This section of the bill also includes policy language exempting grants awarded by BWSR under this section of law from Department of Administration, Office of Grants Management Policy 08-08 Grant Payments and 08-10 Grant Monitoring. The intent of this provision is to reduce duplicative reporting requirements for grant recipients.

*Status: Signed into law by the governor on May 30, 2017 (Chapter 93).*
NOXIOUS WEEDS

Grants to Local Government Units (HF 1545, Article 1, Section 2, Subd. 2 (j))

The omnibus agriculture bill appropriates $300,000 in each fiscal year to the noxious weed and invasive plant species assistance account at the MDA to award grants to LGUs with preference to those responding to Palmer amaranth or other weeds on the eradicate list.

*Status:* Signed into law by the governor on May 30, 2017 (Chapter 88).

Notification Requirement (HF 1545, Article 2, Section 8)

The omnibus agriculture bill includes a policy provision requiring the Minnesota Department of Agriculture (MDA) Commissioner to post notice on the department’s website and alert appropriate media outlets when a weed on the eradicate list is confirmed for the first time in a county.

*Status:* Signed into law by the governor on May 30, 2017 (Chapter 88).

Cost-Share Programs (SF 844, Article 1, Section 4(e))

The omnibus environment and natural resources bill appropriates $100,000 each year to the BWSR for county cooperative weed management cost-share programs and to restore native plants in selected invasive species management sites.

*Status:* Signed into law by the governor on May 30, 2017 (Chapter 93).

PUBLIC LAND MANAGEMENT

Selling Tax-Forfeited Land (SF 844, Article 2, Section 143)

The omnibus environment and natural resources bill includes a provision that authorizes local governments to sell tracts or parcels of tax-forfeited land within a plat or record bordering on or adjacent to meandered lakes and other public waters in the manner otherwise provided by law.

*Status:* Signed into law by the governor on May 30, 2017 (Chapter 93).

No Net Gain of Public Land

A bill was introduced this session (HF 143/SF 372) that would allow county boards to file a no net gain of state lands resolution with the DNR and would require the DNR to sell state land to a private entity before acquiring any new private land in the county. The stand-alone bill did not move this session, but the language was amended to three different House bills – the omnibus environment and natural resources bill, the legacy bill and the environment and natural resources trust fund appropriations bill. The provision was removed in conference committee from each of the three bills.

*Status:* Did not pass.
STATE ASSUMPTION OF SEC. 404 PERMIT *(SF 844, Article 2, Section 4(g))*

The omnibus environment and natural resources bill appropriates $300,000 in FY18 for improving the efficiency and effectiveness of Minnesota’s wetland regulatory programs through continued examination of US Clean Water Act section 404 assumption, including negotiation of draft agreements with the EPA and Army Corps of Engineers. This is the next phase of examining assumption of the 404 permit (legislation in 2015 required a study be completed).

*Status: Signed into law by the governor on May 30, 2017 [(Chapter 93)](chapter_url).*

SUBSURFACE SEWAGE TREATMENT SYSTEMS (SSTS) *(SF 844, Article 1, Section 2 and HF 707, Article 2, Section 5(g))*

The omnibus environment and natural resources bill appropriates $615,000 in FY18 and $614,000 in FY19 for SSTS program administration and community technical assistance and education, including assistance to counties through grants for SSTS. The legacy bill also provides funding to MPCA in the amounts of $3,500,000 in FY18 and $3,370,000 in FY19 for enhancing the county-level delivery systems for SSTS activities.

*Status: Signed into law by the governor on May 30, 2017 [(Chapter 93 and Chapter 91)](chapter_url).*

SUBDIVISION OF LAND/LOT SPLIT *(2017 1st Special Session, HF 1, Article 2, Section 8)*

Legislation passed during the 2017 Special Session as part of the omnibus tax bill that provides counties the same subdivision of land review authority already afforded to municipalities and townships, to ensure that land is divided in a way that doesn’t prevent a future or current owner from building on the land or using it in the way they intend to.

*Status: Signed into law by the governor on May 30, 2017 [(1st Special Session: Chapter 1)](chapter_url).*

SOIL AND WATER CONSERVATION DISTRICTS (SWCD)

**Property Tax Statement**

The first House omnibus tax bill [(HF 4)](hf_url) that passed during the regular session included a provision that would have required counties to include a separate line on the property tax statement for the amount levied on behalf of SWCDs. The Senate bill did not include the same provision and it was not included in the final omnibus tax bill.

*Status: Did not pass.*

**Capacity funding** *(HF 707, Article 2, Section 7(n))*

The legacy bill appropriates $11 million each fiscal year for payments to soil and water conservation districts for capacity funding. From this appropriation, each SWCD will receive $100,000 per year for base funding. Money remaining after the base increase is available for matching grants based on county allocations to SWCDs.

*Status: Signed into law by the governor on May 30, 2017 [(Chapter 91)](chapter_url).*
SOLID WASTE MANAGEMENT

**Capital Assistance Program (CAP)**

There was concern at the end of session that an amendment may be offered to the capital investment bill that would restrict state capital improvement funding for public solid waste facilities if there is a private entity in the same market area. The amendment was not offered and the language was not included in the bill.

*Status: Did not pass*

**Closed Landfill Investment Fund (SF 844, Article 1, Section 2, Subd. 6(e))**

The omnibus environment and natural resources bill appropriated $3 million in FY18 from the Closed Landfill Investment Fund for settling obligations with the federal government, remedial investigations, feasibility studies, engineering, and cleanup-related activities at a priority qualified facility. Counties are concerned with the precedent this sets by allowing the fund to be used for landfills that are not currently in the Closed Landfill Program.

*Status: Signed into law by the governor on May 30, 2017 (Chapter 93).*

**Demolition Debris Landfill Permitting (SF 844, Article 2, Section 153)**

Counties were successful in reaching a compromise with the MPCA this session to provide five year permit extensions for class I demolition debris facilities operating under the 2005 MPCA guidance. Counties will continue to work with the MPCA on potential rules and standards for permitting of demolition debris landfills going forward. This language was included in the omnibus environment and natural resources bill.

*Status: Signed into law by the governor on May 30, 2017 (Chapter 93).*

**Recycling Grants (SF 844, Article 1, Section 2, Subd. 7(b))**

The omnibus environment and natural resources bill appropriated $1 million each fiscal year for competitive recycling grants. This program was created in 2015 and is focused on increased recycling activities in counties outside the seven county metro and in cities with a population of less than 45,000.

*Status: Signed into law by the governor on May 30, 2017 (Chapter 93).*

**Select Committee on Recycling and Environmental (SCORE) Funding (SF 844, Article 1, Section 2, Subd. 7(d))**

The omnibus environment and natural resources bill included an appropriation of $17.25 million each fiscal year for SCORE block grants to counties (this is the base funding level). Initially, the House version of the bill included an increase of $2.5 million per year for SCORE grants and the Senate bill included an additional $500,000 annually. The final compromise bill did not include any new money for SCORE grants, however, and the $17.250 million will be maintained for the next two years; less than last year's appropriation which included a one-time increase of $500,000.

*Status: Signed into law by the governor on May 30, 2017 (Chapter 93).*
Solid Waste Management Tax *(SF 1650 / HF 2088)*

A bill was introduced this session and supported by counties that would allocate a greater percentage of the solid waste management tax towards SCORE funding and activities. The bill received a hearing in the Senate Environment and Natural Resources Finance Committee but was not heard in the House. We will continue this effort in future years.

*Status:* Did not pass

Waste Pesticide Program Surcharge *(HF 1545, Article 2, Section 12)*

The omnibus agriculture bill included an increase to the waste pesticide program surcharge of $125 on each nonagricultural waste pesticide product registered in the state. The Solid Waste Administrator’s Association supported this surcharge increase with the understanding that counties will receive greater reimbursement from the MDA for their costs associated with the Waste Pesticides Collection Program.

*Status:* Signed into law by the governor on May 30, 2017 *(Chapter 88)*.

Bag Ban *(SF 1456, Article 8, Section 14)*

The omnibus jobs, economic development, commerce and energy bill includes language that prohibits government subdivisions from banning any type of merchant bag. The policy is effective as of May 31, 2017.

*Status:* Signed into law by the governor on May 30, 2017 *(Chapter 94)*.

Priority Qualified Facilities (Landfills) *(SF 844, Article 2, Sections 126-128)*

The omnibus environment and natural resources bill includes language to address a priority qualified landfill facility located in the south metro that is a federal superfund site. The language allows the MPCA to take ownership of the property, if the owner refuses to enter the Closed Landfill Program, and clean up the site. The language also removes any potential liability of the other responsible parties. As previously mentioned, $3 million was appropriated from the Closed Landfill Investment Fund to start addressing the issues at this priority qualified facility.

*Status:* Signed into law by the governor on May 30, 2017 *(Chapter 93)*.

Crow Wing County Landfill *(SF 844, Article 2, Sections 124 and 125)*

The omnibus environment and natural resources bill included a provision to add a landfill in Crow Wing County to the Closed Landfill Program.

*Status:* Signed into law by the governor on May 30, 2017 *(Chapter 93)*.
WATER

Drinking Water (HF 707, Article 2, Sections 8 and 9)

The legacy bill appropriated $4.787 million in FY18 and $5.107 million in FY19 to the Minnesota Department of Health for drinking water programs. The bill also appropriated $950,000 each fiscal year to the Metropolitan Council to address drinking water supply threats.

Status: Signed into law by the governor on May 30, 2017 (Chapter 91).

One Watershed One Plan (HF 707, Article 2, Section 6(a) & (i))

$4.875 million was appropriated each year to BWSR through the legacy bill for a pilot program to provide performance-based grants to local government units. The grants are for projects identified in a comprehensive watershed plan developed under the One Watershed, One Plan or metropolitan surface water management frameworks or ground water plans. The Legacy bill also appropriates $1.995 million each year to BWSR for assistance, oversight, and grants to local governments to transition local water management plans to a watershed approach (One Watershed, One Plan).

Status: Signed into law by the governor on May 30, 2017 (Chapter 91).

Water Basin Organizations (Minnesota River) (HF 844, Article 1, Section 4(l))

The omnibus environment and natural resources bill appropriated $240,000 each year to BWSR for a grant to the Lower Minnesota River Watershed District to defray the annual cost of operating and maintaining sites for dredge material.

Another bill (HF 1498/SF 1131) introduced this session required BWSR to coordinate the development and implementation of Minnesota River Basin goals and strategies for sediment, flow and nutrient reductions and the allocation of those reductions proportionally to the 13 major watersheds in the basin. The bill received a hearing in the Senate but not the House and did not pass this session.

Status: Signed into law by the governor on May 30, 2017 (Chapter 93).

WETLANDS

Wetland Mitigation under Permit to Mine / New Contested Case Hearing Process / Appeals (SF 844, Article 2, Sections 56, 57, 58, 59, 110, 111, 113, 114)

The omnibus environment and natural resources bill includes a number of provisions making changes to wetland mitigation under permits to mine, including significant changes to the appeals process and creating new procedures for contested case hearings. Specifically, the language:

- Authorizes the DNR to allocate surplus wetland credits approved under a permit to mine on or after July 1, 1991, that are not otherwise deposited in a state wetland bank.
- Modifies provisions allowing the DNR’s decisions on permits to mine to be challenged to accommodate the new contested case procedures, which are also included in these sections.
- Provides that only final mining permit orders are appealable and they must be appealed directly to the Court of Appeals.
• Authorizes projects requiring a mining permit to include surplus wetland credits to be allocated by the DNR Commissioner to offset future mining-related impacts under any permits to mine held by the permittee, operator, permittee's or operator's parent, affiliated subsidiary, or an assignee.

• Provides that wetland replacement sites identified in an EIS may be approved under the Wetland Conservation Act, within one year of the adequacy determination, without further modification.

• Requires members of a technical evaluation panel who have an ownership interest in a wetland bank to disclose details of that ownership in writing to affected local governments.

• Requires that measures to mitigate any adverse effect on a rare natural community be considered when determining whether or not such a community will be permanently adversely affected as part of the analysis of a wetland replacement plan.

Status: Signed into law by the governor on May 30, 2017 (Chapter 93).

Wetland Replacement Siting (SF 844, Article 2, Sections 108, 109, 111)
The omnibus environment and natural resources bill contains a few sections that apply the definitions of “greater than 80 percent area” and “less than 50 percent area” to a wetland bank service area and remove certain wetland replacement siting limitations. These sections also prohibit wetland replacement siting in a greater than 80 percent area when the wetlands drained or filled are in an area outside of an 80 percent area.

Status: Signed into law by the governor on May 30, 2017 (Chapter 93).

WIND ENERGY SYSTEMS SITING (SF 1706)
Legislation was introduced and heard in a Senate committee this session relating to large wind energy conversion systems (LWECS). Part of the proposal would repeal the following statutory language relating to county zoning “a county may adopt by ordinance standards for LWECS that are more stringent than standards in commission rules or in the commission's permit standards. The commission, in considering a permit application for LWECS in a county that has adopted more stringent standards, shall consider and apply those more stringent standards, unless the commission finds good cause not to apply the standards.”

Counties were able to work with the bill’s author and sponsor to successfully remove the language repealing this section of law during the committee meeting. Ultimately, no provisions in this bill became law this session.

Status: Did not pass.
General Government & Taxes

Following are highlights of the 2017 legislative session pertaining to the areas of general government and taxes, including updates and changes to County Program Aid (CPA), the Indian Child Welfare Act (ICWA) aid, riparian buffer implementation aid, Payment in Lieu of Taxes (PILT) provisions. Also included are elections, data practices, and other passed or proposed provisions that will or could impact counties.

TAXES

Within days following the November 2016 election, newly empowered Senate majority leaders joined forces with the House to claim 2017 as the year for major tax relief. With palpable frustration stemming from two years of consecutive tax bill defeats, the House tax chair nicknamed the 2017 bill the “Let’s all come together” bill, after the 2016 “Don’t stop believing” bill and 2015 “Best tax bill ever” failed to come to fruition. Outside of this, many questions remained on how smoothly the transition from longtime the Senate Tax Chair to the newly minted Chair would go. Not skipping a beat, both House and Senate tax committees passed one of the quickest federal conformity bills in history and both took on impressive committee work. By the end of March, each chamber has released their respective versions of a tax bill with the Senate spending nearly $900 million in the first biennium and the House spending just over $1.3 billion in the same period. The ensuing House and Senate compromise, HF 4, has a spending total of nearly $1.15 billion in the first biennium and was ultimately vetoed by the governor due to concerns about the size and financial implications of such a large spending target. After regular session time ran out May 21, legislative leaders negotiated with the governor to establish a set of eight special session bills, one of which (HF 1) would be the special session tax bill; counties would be one of the major benefactors receiving new dedicated County Program Aid funding, Indian Child Welfare Act Aid, buffer aid and Payment in Lieu of Taxes rate increases. These changes combined with the incorporation of the AMC-driven County Program Aid formula change made for 2017 being one of the most successful county-specific tax bills in recent history.

The total spending of the tax bill ($650 million in FY18-19 and $790 million in FY20-21) was well over the previous year’s vetoed tax bill numbers of $259 million in FY16-17 and $544 million in the “out” biennium. From this total, a significant amount of the new spending is going toward increasing social security income subtractions, an expanded child and dependent care credit, student loan payment credits, modifying amounts for estate tax inclusion, a new agriculture school bond credit, and state general tax relief for the first $100,000 in value for commercial-industrial (C-I) properties as well as the deletion of the C-I inflator.

Tax Bill Overview for Counties:

- A total of $48 million of new, ongoing county funding in FY18-19, $84 million in the “out biennium” (FY20-21).
- $25.5 million additional CPA per year, beginning FY19, with the AMC-supported formula revision.
- $5 million per year in new Indian Child Welfare Act aid.
- $6 million in FY18 and $8 million in FYs 19-on in a new buffer aid program for counties.
- $3.45 million in PILT increases for non-natural resources land (going from $1.50/acre reimbursement to $2.00/acre).
• Assessor Accreditation waiver and timeline extension to go from a Certified Minnesota Assessor (CMA) to an Accredited Minnesota Assessor (AMA).
• No reverse referendum on levy increases language or lease purchase bonds.
• Uniformity for levy certification dates.
• No levy limits.

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**County Program Aid (CPA)**

Thanks to hard-fought efforts of House and Senate authors as well as passionate outreach efforts from county commissioners and staff, AMC was successful in moving one our top AMC priorities: new, ongoing CPA funding along with the AMC-driven CPA formula change. The road toward this major achievement dates to October 2014, when the AMC Board of Directors created a CPA working group to address accelerating number of counties seeing reduced aid or failing to receive a portion of their aid altogether. Over 25 participants—including commissioners, administrators/coordinators, finance directors, and county staff—met on several occasions and identified the following goals:

1. Reduce volatility by placing a cap on losses from any given year.
2. Revise the Tax Base Equalization Aid (TBEA) formula to address the significant number of counties falling off the formula.
3. Continue working with members and legislators post-session to further review the formula.

AMC staff collaborated with House Research and affiliate groups to draft language to enact the goals identified by the AMC task force and find bipartisan authorship and support in both the Senate and House. With two full years' worth of educating members about the flaws and inequities of the old CPA formula combined with 100% member support from all 87 counties, AMC was able to get 35 House authors (including half of all committee chairs) as well as a diverse and powerful contingent of 5 Senate authors in the first month of 2017 session. By the time the tax conference committee met, more than half of the committee members were authors of the CPA bill. The County Program Aid provision was ultimately included in the final, special session tax bill, unveiled on May 23 and signed into law on May 30.
AMC County Program Aid Proposal

- New Funding: $25.5 million per year, starting in FY19 (pay July 1, 2018), with all the money going into the Tax Base Equalization Aid category of CPA.
- Funding floor and index to inflation: a .27% of TBEA funding floor—equivalent to an approximately $350,000 floor.
- Clean up formula eliminate transition aid and special carve outs: previous transition aid removed- all counties that received transition aid received a funding boost larger than the aid allocation.
- Change the TBEA to promote sustainability and encourage counties to climb back: decreases the ANTC percentage to 9%, increases the per capita allocation to $190, and indexes this amount to increase by the ratio of the statewide net tax capacity per capita to the statewide net tax capacity per capita in the 2016 assessment year-- this results in more counties having a per capita number larger than the ANTC factor so the sum is positive- bringing them back from the “cliff.” The indexed per capita number will ensure a county's per capita number keeps up with increases in ANTC.
- 5% cap on losses: a county's CPA allocation will never drop more than 5% than the prior year's allocation; the cap does prohibit counties from gaining more than 5%.
- Change in aid calculation dates: aid calculations for CPA must be based on data available as of January 1 of the year the aid is certified.

**Status:** Signed into law by the governor on May 30, 2017 (1st Special Session: Chapter 1)

Indian Child Welfare Act (ICWA) Aid Program

The tax bill also contains a new aid category to assist counties with a portion of their out-of-home placement costs for children under the Indian Child Welfare Act. While the program does not reach last year’s proposal of paying for the entire state portion of ICWA costs (estimated at $19.3 million last session), the new program is a first step towards identifying the costs incurred by counties and residents on this mandated service.

By July 1, 2017, and each June 1 thereafter, counties applying for aid would report the following information to commissioners of human services and corrections:

- Amount paid out of the county’s social service agency budget for out-of-home placement of Indian children in the calendar year immediately preceding the year in which the report was made; and
- The number of days foster care maintenance payments were made for each Indian child the calendar year immediately preceding the year in which the report was made.

By July 15, 2017, and each July 1 thereafter, the commissioner of human services will verify reporting and certify to the commissioner of revenue who will then reimburse each county a proportionate share of the total aid ($5 million) share of the cost of out-of-home placement of children under the ICWA. Tribes will also receive reimbursement—the greater of 5% of the reimbursement amount received from the federal government for out of home placements for the most recent three years, or $200,000. There are also penalties associated for counties out of compliance with the Indian Child Welfare Act or the Minnesota Indian Family Preservation Act.

**Status:** Signed into law by the governor on May 30, 2017 (1st Special Session: Chapter 1)
Riparian Buffer Aid

A new buffer aid program to assist counties in the administration of the buffer law was included in the final tax bill. The new aid category ($8 million/year) will be available to counties who notified the Board of Water and Soil Resources of their intent to administer buffer law and would be paid on the same timeline as county program aid (July/December payments). The aid will be contingent on counties accepting the administration/enforcement duties associated with the buffer law and allocated based on a county's total number of acres of certain agricultural land and the miles of public watercourses and public drainage systems. The formula will also have a base floor of $50,000 and a cap of $200,000 per county. If a county chooses not to be the enforcement agent, the money would either go to the applicable certified watershed district or BWSR. See the Environment and Natural Resources section of the summary for additional information on provisions included in the omnibus environment and natural resources bill.

Status: Signed into law by the governor on May 30, 2017 (1st Special Session: Chapter 1)

Payment in Lieu of Taxes (PILT) provisions

Rate Changes

The tax bill also included PILT payment increases for county-administered non-natural resource land in its tax bill—shifting the payments from $1.50 to $2.00 per acre.

Status: Signed into law by the governor on May 30, 2017 (1st Special Session: Chapter 1)

Dedicated County Trust Fund

PILT legislation—supported by AMC and the Minnesota Association of Townships (MAT)—was included in the House omnibus tax bill, but failed to be incorporated in the conference committee report or the final, Special Session tax bill. The language, largely driven by an AMC-MAT workgroup, would establish a new county trust fund in which the state would deposit a one-time property tax payment of 30 times last year’s assessed property tax on any parcel purchased with at least 20% of LCCMR or Heritage funds. Each year, counties would take out of the trust fund the total amount of property taxes due on the specific parcel, not equaling greater than 5.5% of the fund balance and disburse the appropriate amount to local units of government.

Status: Did not pass; HF 586/SF 1005 not adopted by tax conference committee.

Soil and Water Conservation District Levy Certification

A provision included in the House omnibus tax bill would have required the county levy for soil and water conservation district (SWCD) operations to be certified separately as a special levy and placed on the property tax statement. Subsequent language would have provided uniformity for levy certification dates (extending certification from September 15 to September 30). AMC testified with concerns about the confusing structure of placing a new line item on the property tax statement and shared concerns that this might be a first step on the path to levy authority. The levy certification language was ultimately not included in the tax conference committee report. AMC will be working on further delineating counties' position on this issue during the interim.

Status: Did not pass, HF 1263/SF 1459 not included in the Omnibus Tax Bill.
Lot Split/County Review Language

A two-time victim of prior year tax vetoes, this non-controversial, MACPZA- and AMC-supported provision will grant counties the same authority that city planning and zoning authorities already have when it comes to the review of a land division. The language will allow county planning authorities to review a land divide or land transfer so that they may assess whether the lot is eligible for future development or other uses.

Status: Signed into law by the governor on May 30, 2017 (1st Special Session Laws: Chapter 1)

Assessor Accreditation

In 2013, the Legislature passed a new law requiring all those who appraise real property to become Accredited Minnesota Assessor (AMA)-certified by July 1, 2019. AMC worked with several House and Senate legislators to bring awareness to the logistical problems posed by this law. After four years of attempts to modify the law to accommodate county concerns, AMC was successful in forging compromise language (drafted with the assistance of the Department of Revenue and MAAO) which will “grandfather” in assessors who have been assessing since 2004 and will complete an examine and application to the State Board of Assessors. The compromise language also increases the timeframe for new assessors to gain their AMA license (changing it from 4 to 5 years).

Status: Signed into law by the governor on May 30, 2017 (Minnesota 1st Special Session: Chapter 1)

School Building Bond Agricultural Credit

For the last two years, legislators and school associations have attempted to address the problem of farmers paying proportionally high taxes on school referendum levies. The solution included in final tax conference committee report will provide a state property tax credit on all agricultural land and buildings equal to 40% of the tax on the property that is attributable to the school district bond debt levies. The provision costs the state approximately $35 million in the first biennium and $98 million in the second biennium. The bill defines which school levies are considered to be “debt service levies” and requires counties to compute a school debt tax rate as well as show the school building bond credit on property tax statements.

Status: Signed into law by the governor on May 30, 2017 (1st Special Session: Chapter 1)

Disabled Veterans Market Value Exclusion

There continued to be several proposals this year to expand the Disabled Veterans Market Value Exclusion. AMC testified in numerous committee hearings in addition to meeting with legislative and executive branch leaders to ask that this well-deserved program eventually be turned into a credit rather than an exclusion due to the large property tax shifts in communities. While there was no change in the value or duration of the exclusion benefit, changes were made to get rid of the annual application requirement and provide the ability for spouses to receive the benefit if the veteran met honorable discharge requirements and was 100% permanently disabled but did not apply for or receive the exclusion before death.

Status: Signed into law by the governor on May 30, 2017 (1st Special Session: Chapter 1)
Property Tax Rate Reduction for Congressionally Chartered Veterans Organizations

Congressional veterans organizations will receive a reduced property tax class rate of 1%. The Commissioner of Veteran Affairs will be responsible for compiling a list of congressionally chartered veterans organizations to provide the Commissioner of Revenue by June 30, 2017 and each January 1 thereafter.

**Status:** Signed into law by the governor on May 30, 2017 (1st Special Session: [Chapter 1](#))

State General Tax Reduction and $100k Credit

A popular item the last several years has been the idea of providing tax relief for businesses and seasonal recreation properties who not only pay local property taxes, but also a statewide general property tax—commonly referred to as the State Commercial-Industrial (C-I) tax. Put in place in the early 2000s, the state general tax was created as a set levy and then increased every year by an inflator that would increase the amount collected by the state on par with the price deflator for government consumption expenditures and gross investment. The House and Senate each created their own versions of relief, with the House including a $200,000 exclusion of value with an inflator repeal and the Senate including a $100,000 exclusion with an inflator repeal. While the idea of property tax relief was endorsed by both parties, Governor Dayton and Democratic Tax Committee leads shared concerns about deleting the inflator because of the impact to state revenue in the long term.

In the end, both tax chairs agreed to a proposal which would provide an exemption for the first $100,000 in market value for every C-I property; along with the elimination of the “inflator” for both the business and seasonal/recreational portions of the tax. The total cost of the $100,000 exemption along with inflator repeal is $96 million in FY 18-19 and $195 million in FY 20-21 (continuing to grow thereafter). Governor Dayton reiterated his concerns about deleting the inflator—along with costs of the estate tax and social security exemption—and has even required the reinstatement of the inflator as a prerequisite for Special Session. Nonetheless, the governor signed the tax bill, including the inflator, on May 30, 2017. The fate of this provision in the coming summer and year is still uncertain.

**Status:** Signed into law by the governor on May 30, 2017 (1st Special Session: [Chapter 1](#))

Levy Certification Date Unification

Both the House and Senate carried legislation to make consistent all certified levy dates for special taxing districts—aside from the Metropolitan Council and the Metropolitan Mosquito Control District. Although local units of government have already received authority to certify proposed levies by September 30, language failed to provide the same authority for special taxing districts.

**Status:** Signed into law by the governor on May 30, 2017 (1st Special Session: [Chapter 1](#))

Due Date/Penalty Simplification

The House carried provisions equalizing penalties for first and second half late payments on property taxes for agriculture homestead/non-homestead and residential homestead/non-homestead. Included in last year’s vetoed tax bill, the provisions were inserted once again to the Special Session tax bill. The new penalty timetable can be found on House Research’s bill summary.

**Status:** Signed into law by the governor on May 30, 2017 (1st Special Session: [Chapter 1](#))
Late Payment/Stamp Allowance

This bill will allow taxpayers to avoid late payment on property taxes if their payment was postmarked within one day of the final due day—and extends the due date for county auditors to issue property tax payments to taxing jurisdictions by one day to accommodate for the allowance. This allowance could only be used once. Additional language clarifies that a postmark or registration mark qualify as proof of timely mailing of current or delinquent property tax payments and that other evidence may be considered, except for electronic stamps purchased online.

Status: Signed into law by the governor on May 30, 2017 (1st Special Session: Chapter 1)

Tax Forfeiture Updates

The Minnesota Association of County Officers was successful at pushing forward several reform and modernization changes to tax forfeiture laws, including most of the initial package of proposals contained in HF 1379/SF 1192. Collectively, these changes will allow counties to more expeditiously shore up and protect tax forfeit properties as well as returning them to the tax rolls as soon as possible.

Status: Signed into law by the governor on May 30, 2017 (1st Special Session: Chapter 1)

Agriculture Rate Expansion for Conservation Programs

Language was included in the special session tax bill that will allow for landowners enrolled in a local conservation program administered by a town, city, county or watershed district (receiving incentive payments equal to at least $50/acre in exchange for certain restrictions) to qualify for agricultural property tax rate. A taxpayer must apply to the assessor by February 1 of the assessment year in addition to submitting certain information to the assessor.

Status: Signed into law by the governor on May 30, 2017 (1st Special Session: Chapter 1).

Local Government Construction Materials Sales Tax Exemption

A measure to provide a sales tax exemption to local units of government on building materials— supported by the League of Minnesota Cities, Minnesota Inter-County Association and Association of Minnesota Counties—was included in the House omnibus tax bill. HF 299/SF 460 would have allowed counties to engage in lump sum bidding and contracts while still being eligible for a sales tax exemption. Under the proposed bill, a contractor/subcontractor would pay the sales tax at the time of purchase and then provide the county with documentation of purchases. The county would then apply for the building materials sales tax refund through the Department of Revenue. The exemption had a fiscal note of approximately $41 million per year and was included in the regular session tax bill (HF 4) ultimately vetoed by the governor.

Status: Did not pass; HF 299/SF 460 not incorporated into the Special Session omnibus tax bill.
Local Government Construction Materials Sales Tax Exemption

A measure to provide a sales tax exemption to local units of government on building materials—supported by the League of Minnesota Cities, Minnesota Inter-County Association and Association of Minnesota Counties—was included in the House omnibus tax bill. HF 299/SF 460 would have allowed counties to engage in lump sum bidding and contracts while still being eligible for a sales tax exemption. Under the proposed bill, a contractor/subcontractor would pay the sales tax at the time of purchase and then provide the county with documentation of purchases. The county would then apply for the building materials sales tax refund through the Department of Revenue. The exemption had a fiscal note of approximately $41 million per year and was included in the regular session tax bill (HF 4) ultimately vetoed by the governor.

Status: Did not pass; HF 299/SF 460 not incorporated into the Special Session omnibus tax bill.

Utility Refund Orders and Enbridge Lawsuit

For the last several years, AMC has worked with counties to bring awareness to the growing significance, occurrence, and impact of utility refund orders. In all corners of Minnesota, counties are hosts to a wide arrange of utility companies that are assessed by the state. In recent years, several large companies have sued the state for multiple years of assessments, arguing that they were overvalued. A recent lawsuit by Enbridge impacts several northern counties and has the potential to require certain counties to owe back more money than their entire levy. AMC has worked to educate members on these occurrences and the financial impact to communities in addition to introducing several legislative solutions including:

- Requiring the state to pay the entirety of the refund;
- Allowing counties to institute a property tax refund over multiple years, assuming such provision is agreed to by the property owner; and,
- Requiring the Department of Revenue to study the assessment process used for utility companies and compare it to how other states are doing these assessments.

While none of these provisions were ultimately passed, AMC will continue working on this issue next year as counties await a verdict from a looming Enbridge lawsuit due to be heard in court in October 2017.

Status: Did not pass. (HF 1628/SF 1630)

Reverse Referendum on Lease Purchase Agreements

HF 112 would have required referendum approval of any debt issuance on lease-purchase bonds, a mechanism occasionally used by counties to finance the building of jails. HF 112 was later incorporated into the House property tax division report, as well as the omnibus House tax bill and conference committee report. The provision was not included in the final tax package signed by the governor.

Status: Did not pass; Included in House omnibus tax bill, but HF 112/SF 1849 was not adopted in Special Session tax bill.

Reverse Referendum on Levy Increases

Part of the 2015 “Property Taxpayers Empowerment Act”, this year’s original House tax omnibus bill, HF 4, included a provision which would allow citizens to petition for reverse referendum on any levy increase that is greater than the previous year’s levy. If a petition is successfully signed by 10% of the county’s eligible voters by June 30, a referendum would be placed on November ballot for the following year’s levy. If successful, counties would not be able to levy any more than the previous year’s amount. Moreover, counties
would be unable to issue any new debt obligation from the time the petition for referendum is filed until the
election. The conference committee or ultimate special session tax bill signed into law did not include this
provision.

**Status:** Did not pass; included in House tax bill, but HF 4 was not adopted by taxes conference committee.

### Agriculture Facility Containment Facility Exemption Repeal

A property tax exemption for agricultural containment facilities will be repealed after statewide confusion
resulting over a Department of Revenue ruling changing the way several counties assessed the properties.
The repeal will be retroactive to 2016 but allow any property that was exempt in 2016 and 2017 to retain
the exemption.

**Status:** Signed into law by the governor on May 30, 2017 (1st Special Session: Chapter 1)

### Workforce Tax Increment Financing Expansion

Allows cities to create a Tax Increment Finance (TIF) district for housing projects if 1) the city is located
outside the seven-county metro area; 2) the average vacancy rate for rental housing is less than three percent
for at least the two prior years; and 3) a business within the city (or 15 miles) that employs more than 20
FTEs provides a written statement vouching that there is a lack of available rental housing. New “housing
TIF districts” will be able to collect 26 years of increment as opposed to the traditional economic
development district standards of 9 years.

**Status:** Signed into law by the governor on May 30, 2017 (1st Special Session: Chapter 1)

### Tobacco Sales Tax Changes

Repeals the annual inflation adjustment for the excise tax on cigarettes in addition to reducing the maximum
tax on premium cigars from $3.50 to $.50. Total cost of these two provisions to the general fund are $12
million in first biennium and approximately $34 million in second biennium.

**Status:** Signed into law by the governor on May 30, 2017 (1st Special Session: Chapter 1)

### County-specific Language

- Wadena County: $600,000 grant for FY18-19.
- Washington County: allows the Washington County Community Development Agency to establish TIF
districts in certain part of Newport.
- Hennepin County: grants the ability to issue 20-year capital notes for projects to eliminate a Freon-based
refrigerant.
- Clay County: allows Clay county to impose a sales and use tax of up to .5% to pay for and finance the
costs of constructing a new correctional and law enforcement center.

**Status:** Signed into law by the governor on May 30, 2017 (1st Special Session: Chapter 1)
Minnesota Department of Revenue Technical Changes

As typical in every legislative year, the Minnesota Department of Revenue provides the Legislature with a proposal(s) containing an assortment of federal conformity, technical and policy suggestions. Included in the DOR's recommendations—and special session tax bill—are several county-related provisions, including:

- Additional property tax administration training requirements: allows the Commissioner of Revenue to require local property tax administrators to take additional property tax training if the commissioner deems they are not performing functions in a uniform or equitable manner. Training may not exceed 32 hours.

- Aquatic Invasive Species Prevention Aid requirements: requires Department of Natural Resources to annually certify the number of watercraft launces and trailer parking spaces in each county along with certifying to the Commissioner of Revenue, on an annual basis, that counties are following the requirement to establish guidelines for addressing aquatic invasive species.

- State Board Equalization reassessment orders: provides authority to the State Board of Equalization to issue orders to county assessors to reassess all or part of a parcel if the Board determines that the county has “grossly under/over-valued” a property or if the Board finds the assessment “grossly unfair or inequitable.”

- County Board of Equalization minutes: eliminates requirement that all county boards of appeal equalization must file a printed copy of meeting minutes with the Commissioner of Revenue.

- Valuation notice compliance: Requires that if a county/city assessor fails to mail valuation notices to taxpayers, the assessor must mail an additional valuation notice and convene a supplemental local board of appeal and equalization meeting/local review session.

- Property access requirement for appeal of taxes: requires a property owner to grant access to an assessor for a county board of appeal and equalization to grant a change in value/benefit.

**Status:** Signed into law by the governor on May 30, 2017 (1st Special Session: Chapter 1)

ELECTIONS

Elections Omnibus Bill

A last-minute omnibus elections bill came to fruition after House and Senate committee leaders worked out differences between early-passed election bills that lacked commonalities. The ultimate compromise bill contained mostly non-controversial House provisions along with a new system for five uniform election dates and six county row officer appointment provisions. Senate proposals regarding party judge affiliation data or provisional balloting mechanisms were eliminated or amended to the extent that AMC had a position of neutrality.

**Status:** Signed into law by the governor on May 30, 2017 (Chapter 92)

Uniform Election Dates

House and Senate proposals to move to toward five prescribed dates for special elections was perhaps the single greatest policy change in the omnibus elections bill. The newly signed law will require towns, cities,
counties, and school districts to conduct all special elections (for bonds, appointments to offices, etc.) on five selected dates: second Tuesdays of February, April, May, August, and November (the general election date).

**Status:** Signed into law by the governor on May 30, 2017 ([Chapter 92](#)).

### Statewide Appointment of County Row Officers

AMC’s efforts to provide a statewide system for the appointment of row officers (auditor, treasurer, recorder) were placed on hold this year after new Senate election leadership declined to hear SF 421/HF 534, while the House Government Operations Committee decided to only make the appointment authority apply for recorder positions. The effort to provide counties a system to appoint these positions back to 2015, when an AMC and Minnesota Association of County Officers (MACO) working group reached consensus on statewide legislation that would allow for counties to move to an appointed system of row officers—county auditor, treasurer and recorder. This solution, a long time in the making, represented a compromise between the two organizations and over two years of work and was even included in the 2016 omnibus House government operations and elections bill. While no significant progress was made on uniform statewide authority, AMC was successful in advocating for the inclusion of five county-specific appointment provisions including:

- Pine county auditor/treasurer
- Stearns county recorder
- Benton county recorder
- Marshall county recorder
- Rice county auditor/treasurer
- Morrison county recorder—including by request of author

**Status:** Did not pass: Uniform, statewide authority ([HF 534/SF 421](#)).

What did pass: six county special authority proposals that were included in regular session omnibus elections bill were signed into law by the governor on May 30, 2017 ([Chapter 92](#)).

### June Primary

Bipartisan efforts to change the state primary date from August to June once again failed to gain enough support in both chambers to make it through the conference committee process to the governor’s desk, despite both Republican and Democratic party chairmen voicing support. HF 1393 was included in the House version of the omnibus elections bill, but was later taken out during the conference committee process. The legislation would have moved the state primary up three months and, in doing so, shifting several county election timelines. Expect this issue to return in the next biennium.

**Status:** Did not pass ([HF 1393/SF 1264](#)).

### STATE GOVERNMENT FINANCE

#### Election Equipment Replacement Grant

An AMC-supported $7 million, one-time appropriation for election equipment replacement was included in the final special session state government finance omnibus bill. While this appropriation does not near the identified costs to replace Minnesota’s aging election equipment ($20 million +), it is nonetheless a welcome investment. Political subdivisions will be able to apply for the grant through the Secretary of State’s office and can purchase an assortment of mandated and assisting voting technology including electron voting
systems, assistive voting technologies, electronic poll books and any other equipment or technology approved by the Secretary of State. A county may not receive more than 75% of the total costs of electronic roster (e-poll books) equipment or 50% of the other equipment defined above. The Secretary of State’s office will host work group discussions this summer to prepare specifics for the grant process and hear county input. More information will be available in the coming months.

**Status:** Signed into law by the governor on May 30, 2017 (1st Special Session: Chapter 4)

**Long-term Investment Authority Provision**

A Minnesota Inter-County Association (MICA)-led provision to expand the authority of certain counties to engage in long-term investments was included in the state government finance omnibus bill. The provision would allow counties with population thresholds above 100,000 people the ability to invest in index mutual funds or the Minnesota State Board of Investments if its general obligation bonds were rated in the highest category by a national bond rating agency.

**Status:** Signed into law by the governor on May 30, 2017 (1st Special Session: Chapter 4)

**Office of the State Auditor/Annual Audit Provisions**

Provisions to reimburse three counties financially impacted by the State Auditor’s lawsuit against a 2015 law providing counties the same authority as other local governments have in contracting with private audit firms to conduct their annual audits were not included in the final State Government Finance bill. Instead, special session HF 4 eliminates the Office of the State Auditor’s enterprise fund and directs the Office of the Legislative Auditor to conduct a review of the State Auditor’s recently conducted audit of county CPA firms.

**New Statewide Budget Office Created**

A new legislative budget office will be opening its doors starting January 8, 2019. The new office, entitled the Legislative Budget Office, will be a non-partisan office—with an executive director appointed by the Legislative Coordinating Committee—and will be responsible for providing the Senate and House with fiscal and local impact notes, duties that were formerly carried out by the Minnesota Management and Budget office. AMC did not have a position on this proposal, but will be watching how this change in process could impact the fiscal note and local impact note process.

**Status:** Signed into law by the governor on May 30, 2017 (1st Special Session: Chapter 4)

**PENSIONS**

The Legislative Commission on Pensions and Retirements (LCPR)—the body responsible for reviewing and recommending changes to pensions plans—spent most 2017 session holding hearings on how to address major funding deficiencies of the state’s major pension plans. While changes in this year’s omnibus proposed pension bill were largely directed at MSRS and TRA, PERA Police and Fire along with PERA General were impacted by several of the initial LCPR proposals, including:

**PERA General:**

- Moving from 8% assumed rate of return to 7.5% rate of return.
- Reset 30-year amortization to 2047.
- Elimination of 2.5% COLA trigger (it wasn’t set to take place to 2045).
- Recodification of deletion of augmentation.
- A move towards eventual actuarial equivalence (over the course of 5 years).
• Lower refund interest rate from 4% to 3%.
• Slow implementation of deleting early retirement COLA—starting in 2023, early retirees would not be able to earn a COLA for an elective decision to retire early.

**PERA Police and Fire Plan**
- Moving from 8% assumed rate of return to 7.5% rate of return.
- Employer contribution increase of 1.5%, employee contribution of 1%.
- COLA 2.5% trigger elimination.
- State aid to help deficiency ($4.5 million for the next two years, $9 million in aid thereafter).
- Reset 30-year amortization to 2047.

By the end of session, labor representatives had lobbied successfully to remove PERA General Plan changes from the bill, arguing that the PERA Board had not taken a position and the reforms were not balanced between employers and employees. The ensuing pension bill—leaving out PERA General but requiring the PERA board of trustees to report back to the LCPR on a package of benefit and sustainability reforms—was looped into Special Session SF 3, a bill containing labor agreement ratification language and controversial language surrounding local government preemption on labor wages, standards and conditions. Governor Dayton followed through on his threat to veto any bill that included the preemption language. Expect more work on this issue in the coming year.

*Status: Vetoed by the governor on May 30, 2017 (Chapter 2).*

**LOCAL GOVERNMENT CONTROL**

A defining feature of this legislative session was the increasing number of bills aimed at preemption local control over various governance issues. While AMC was successful in amending counties out of several of these bills, the general direction of certain interest groups to “pre-empt” or limit local governments to be responsive to their citizens and community needs is concerning and one that may reoccur in succeeding sessions. AMC will continue to promote local control.

**Ordinance Notification Bill**

A bill which would require local governments to notify all “potentially-affected” businesses of any ordinance which may “potentially impact” them via first class mail or email was once again introduced this session. AMC worked with authors in both chambers to address the redundancies and vague language in the original proposal and was eventually successful in amending counties out of the bill. The ensuing language which was signed by the governor on May 20, 2017 only applied to statutory or home rule charter cities and creates a new system to allow citizens/business owners to sign up for email notifications of proposed ordinances. If a city does not have this technology, the law requires cities to post ordinances on its website at least 10 days prior to the day the proposed ordinance is scheduled for a final vote or, if a city does not have a website, post the proposed ordinance in the same public space it uses for other notices.

*Status: Signed into law by the governor on May 23, 2017—excludes counties (Chapter 77).*

**Statewide Uniform Labor Standards Bill**

A proposal to preempt local governments from enacting or changing new minimum wage or labor standards on private businesses was included in Special Session SF 3 but ultimately vetoed by the governor. Specifically, the provision would have banned local governments from adopting or enforcing—by ordinance, policy, or resolution—the following:
- A minimum wage standard higher than the state minimum wage;
- A program that would require an employer to provide paid/unpaid leave;
- Regulations regarding employer scheduling; or,
- A policy requiring an employer to provide an employee “particular benefits of employment”

The proposal did not prohibit governmental entities from enacting the above items on their own employees. AMC voiced concerns about the far-reaching impacts of this scale of preemption and the vague terminology (e.g. “particular benefits”) included in the bill.

**Status:** Vetoed by the governor on May 30, 2017 (1st Special Session: Chapter 2)

### DATA PRACTICES

#### Email Retention

Local government groups were kept busy this session testifying on several proposals to expand current data practices law surrounding email retention. Specifically, HF 1185, a bill defining “correspondence” to include any written or electronic text-based communication to or from officers, elected officials, administrators, managers, professionals, and all other staff that document events, decisions, business, and functions of the agency, public authority, or political entity would have required governments (aside from the Legislature) to retain said correspondence for a minimum of three years. While purely personal communications, announcements of social events, and unsolicited advertising or promotional material were excluded from the proposal, AMC voiced concerns regarding the costs of storage, retrieval and redaction of private information. A similar bill which would have required an 18-month retention policy was introduced but did not gain traction. AMC will be hosting discussions this summer to discuss possible modernization of current retention schedules and to brainstorm reimbursement structures used in other states.

**Status:** Did not pass. 3-year retention (HF 1185/SF 1719); 18-month retention (HF 70/SF 123)

### VITAL COMMUNITIES AND ECONOMIC DEVELOPMENT

The omnibus jobs, economic development, energy and commerce bill, as well as the capital investments bill, include funding for programs supported by the Minnesota Association of Professional Economic Developers and the Minnesota Workforce Council Association. Specifically, the AMC platform supports funding for the Minnesota Investment Fund, the Job Creation Fund, and robust jobs and training programs.

Like all other budget bills, the governor vetoed the first proposal presented by the Legislature, indicating that the $356.3 million spending level was not adequate and that the bill contained several objectionable policy provisions. The final compromise bill comes in approximately $23.1 million higher at $373.8 million for the 18-19 biennium.

While investments were made in many programs, the budget target (particularly in the first round of proposals) incentivized spending a large portion of the Workforce Development Fund, which would otherwise go to the state Dislocated Worker Program, on other initiatives. Reductions were also made to competitive grants, for which county-based workforce development programs can apply, to address equity issues in Minnesota.
**Economic Development Funding (Article 1, Section 2)**

The following programs are funded in the bill:

- Job Creation Fund: $17 million ($4 million above base funding).
- Minnesota Investment Fund: $25 million ($3 million above base funding).
- Greater Minnesota Community Design: $250,000 (new). This funding will be used to identify current and future opportunities for rural development, and assist with the implementation of projects that support communities as “good places to live, work and play.”
- Mille Lacs Economic Relief Program: $150,000.
- $4 million for the workforce development housing development program.

**Status:** Signed into law by the governor on May 30, 2017 (Chapter 94).

**Workforce Development Funding (Article 1, Section 2)**

For workforce development, the statewide Minnesota Youth Program and Higher Education Career Advising Program were level funded; as was funding for the Rural Career Counseling Coordinators (staffing in rural counties to ensure alignment between workforce development, K12 and higher education). Unfortunately, the Legislature diverted an unprecedented level of funding out of the Workforce Development Fund, which results in a dollar-for-dollar cut to the Dislocated Worker Program. The program will have 20% fewer dollars than in the previous biennium to retrain workers who lose their jobs due to the shifting economy.

- Minnesota Youth Program: $4.050 million.
- Rural Career Counseling Coordinators: $1 million.
- Higher Education Career Advising Program: $250,000.

**Status:** Signed into law by the governor on May 30, 2017 (Chapter 94).

**Capital Investments Bill (Article 1, Section 20)**

The capital investments bill made the following investments that support local workforce and economic development efforts, administered by the Department of Employment and Economic Development:

- Transportation Economic Development Infrastructure (TEDI): $3.5 million. The Transportation Economic Development Infrastructure Program (TEDI) is a competitive grant program available to communities for road and public infrastructure projects that create jobs and support economic development.
- Greater Minnesota Business Development Public Infrastructure Grants (BDPI): $12 million. Provides grants to assist eligible applicants with the development of public and private infrastructure for eligible business improvement projects and industrial parks.
- Innovative Business Development Public Infrastructure Grants (IBDPI): $1.128 million. IBDPI focuses on job creation and retention through the growth of new innovative businesses and organizations. The program provides grants to local governmental units on a competitive basis statewide for up to 50 percent of the capital cost of the public infrastructure necessary to expand or retain jobs.

**Status:** Signed into law by the governor on May 30, 2017 (Chapter 8).
Health and Human Services expenditures comprise a significant portion of county budgets across the state. As the administrative arm of the state for the health and human services system, counties bear responsibility in eligibility determination and service delivery for residents statewide. While counties would like to be viewed as equal partners in assuring Minnesotans are appropriately connected to services in a timely fashion, there continues to be disconnection between the state, counties, and partner organizations as to the roles and responsibilities each plays in the system.

Counties continue to seek clarity around these roles and responsibilities in the health and human services system through an honest assessment of the system, including its sustainability, and through further discussion relating to the fiscal responsibility of some mandated services and when county investment is appropriate. These conversations relating to efficiency and viability become even more critical when we see significant cuts and additional cost shifts to counties in health and human services, as was the case this year.

The state began this budget cycle with a $1.65 billion surplus. Despite this large surplus, Health and Human Services saw a $463 million cut for the upcoming biennium. While statewide county initiatives were not funded as we had hoped, small scale individual county projects saw movement, as legislators supported innovative projects that they hope will create future savings and efficiencies in the system.

**AMC LEGISLATIVE PRIORITIES**

**Minnesota Eligibility Technology System Funding**

A top priority for AMC this legislative session was to increase funding for the Minnesota Eligibility Technology System (METS). AMC had developed a work group made up of county commissioners and social services directors from across the state to assess county concerns with the technology systems functionality, and how counties could work with the state to improve upon the existing system. As the legislative session approached, counties actively reached out to legislators, taking some on ride-a-longs to better understand how counties are working within the system to identify inefficiencies. However, METS has been historically linked to MNsure and in the Minnesota House there was a strong desire to eliminate MNsure and its associated programs. The first health and human services omnibus bill that was passed - and ultimately vetoed by Governor Dayton - included language that eliminated MNsure and would have then transitioned Minnesota to the Federal Exchange. This also proposal included a 50% reduction in funding for METS.

Counties introduced legislation that sought increased funding to METS (HF 2123/ SF 1786). Although this bill failed to meet the legislative deadlines, legislators continued to comment about their experiences on county ride-a-longs, recognizing the impact the current level of functionality that METS is having on counties.

In the final health and human services omnibus bill, additional METS funding was not included. Despite proposed cuts, however, current levels of funding remained to support current functionality with some scheduled improvements. The Department of Human Services (DHS) did receive additional funding for technology improvement for the Integrated Service Delivery System and MMIS Modernization. DHS has indicated METS can be included in overall technology modernization. Counties continue to have concerns surrounding the time frames for system updates and additional state requirements.
Counties also received no additional funding for eligibility determination in the language passed in the final omnibus bill. DHS received funding for Eligibility Verification Federal Compliance. This requires the Commissioner to implement a process to terminate coverage for MA enrollees who fail to submit requested verifications within 95 days of coverage approval. Initially this will be an additional burden on the workload to counties, as by July 1, 2017 the commissioner shall implement a manual process and instructions for counties and the necessary reports. This manual process will continue until at least April 1, 2018 at which time the commissioner shall ensure METS has the required functionality to implement an automated process.

Despite the problems with METS, the Legislature has required the implementation of Periodic Data Match (PDM) beginning in March of 2018. PDM is expected to find waste, fraud, and abuse, while significant savings were booked in the last biennium that the Legislature is eager to see realized. Counties will continue to work with legislators on this issue as PDM will create additional pressure on the current system.

**Status:** Did not pass.

**Elimination of County Cost Shares**

Another top priority of AMC this year was to eliminate and prevent cost shifts from the state to the county level. In recent years, counties have seen increases to the county share for services provided to individuals. AMC fought this session to have the cost share for those no longer meeting medical criteria at CBHH's and AMRTC to sunset within 3 years. Although this provision was unsuccessful, discussing this provision with legislators and partners helped us to have more conversations overall about our state's continued need to build out – and fund – mental health services into our communities.

**Status:** Did not pass.

**Cost Shift at Anoka Metro Regional Treatment Center (AMRTC)/Community Behavioral Health Hospitals (CCBH)**

In recent years, there have been significant cost shifts to counties relating to mental health. There was a perception that counties were not actively seeking alternative placements for individuals no longer meeting medical criteria at Anoka Metro Regional Treatment Center (AMRTC) or at Community Behavioral Health Hospitals (CCBH), which resulted in a 100% shift of the cost to the counties. This unpredictable cost has created significant challenges to county budgets. Counties continue to struggle with finding alternative placements, and continue to struggle to ensure there is efficient communication and planning with these facilities so that patients do not get caught in the system. It was estimated that last year counties paid approximately $54 million in penalties when a patient no longer met medical criteria but was without community placement.

AMC worked with legislators to introduce a bill (HF 1734) that would sunset this county cost share; however this bill did not receive a hearing. Counties expressed concern this penalty was going into the general fund, and not being used to build out the mental health system so that counties have additional community placement options for those who do not require hospital level of care. This concern was echoed in the recommendations of the Governor’s Task Force on Mental Health, which concluded these funds should be placed into a dedicated account to build the mental health system to avoid bottle necks in the continuum of care.
The bill introduced by AMC would have specifically given grants to counties to build out the mental health system in the interim before the cost shift sunset, however the bill that gained traction was HF737, which allows grants to be applied for by hospitals, counties, and other community partners within the mental health community. Counties worked with the authors and interested parties to require grant applications to include a letter of support from the local mental health authority. Additionally, the final bill requires DHS to select grants in consultation with stakeholders, including counties. The funding mechanism from the bill uses the county cost share, however the cost share is only used in part. Mental Health Innovation Grants provide funding in the amount of $2.2 million in FY18-19 and $2.2 million in FY20-21, and provides ongoing funding for grants through the county cost shift.

**Status:** AMC Bill: Did not pass.

*Mental Health Innovation Grants:* Signed into law by the governor on May 30, 2017 ([Chapter 6](#)).

**MNCHOICES Cost Shift to Counties**

Despite large cuts to human services this legislative session, counties fared relatively well. Although we did not see our top initiatives move forward, we did not see dramatic cuts to county funding or programs. That being said, an additional cost shift in MNCHOICES was added to counties this year.

Counties are responsible for providing MNCHOICES assessments to residents with disabilities so they can access needed services for care and treatment. The conversation surrounding MNCHOICES was intended to streamline assessments, and it was estimated this would reduce the cost of the program by half. DHS maintained that these types of savings were not achievable however at no time during the conversation was a clear path determined for savings or streamlining of the program.

Counties work with DHS in a forum called the State County Workgroup, where MNCHOICES assessments and requirements are discussed in detail. There are plans for streamlining the process, but to date these practices have not been finalized.

What resulted from these conversations was a cost shift to counties who are now required to pay a portion of the state share of these assessments. In the final spreadsheet for the bill, released hours before final passage, this direct cost shift to counties without any requirement for program improvement appeared for the first time all session. MNCHOICES Administration Reform generates $19.3 million FY 18-19 and $22.3 million in FY20-21 through this cost shift to counties by shifting 15.7% of the state share to counties through June 30, 2019 and 18.1% of the state share beginning on July 1, 2019.

This provision, unfortunately, does nothing to lower the cost of government, nor streamline programs, nor spur innovation. It simply shifts the cost from one level of government to another.

**Status:** Signed into law by the governor on May 30, 2017 ([Chapter 6](#)).

**Human Services Funding Task Force**

With more and more costs being shifted to counties, the human services system is becoming unsustainable. Counties worked to create a task force that would review how the human services system was funded. However, the legislation ([HF1462/SF1154](#)) did not move forward this session.

**Status:** Did not pass.
Investments in Mental Health

The final AMC priority item in Health and Human Services was to see continued investment in mental health. Counties have seen increasing needs for individuals in jails, and in community for mental health services. As this is becoming a greater crisis, impacting families throughout the state, AMC supported initiatives that would help support families and individuals in crisis as well as grant funding that sought to create community supports. The following items in the final omnibus budget bill that support this goal:

- Redesigning intensive mental health services for children: state-only medical assistance funding for children’s residential mental health in Institutions for mental disease; $4.8 million (FY18-19);
- Continued funding for the CABHS facility in Willmar; $896,000 (FY18-19).
- Housing Needs Funding: investment into long-term homelessness support services for housing for adults with mental illness; $2.5 million (FY18-19).
- Mental Health Grant Funding: $2.5 million (FY18-19) for housing supports; assertive community supports, adult and children respite services, and crisis services.
- First Psychotic Episode: provides funding to a pilot which would seek to provide services and supports for those experiencing their first psychotic episode in the hope that they could receive services to prevent future decompensation. $1 million was allocated for this biennium.
- Children’s Mental Health Report and Recommendations: DHS shall conduct a comprehensive analysis of Minnesota’s continuum of intensive mental health service and shall develop recommendations for a sustainable and community-driven continuum of care for children with serious mental health needs. $250,000 (FY18-19)
- Support for Persons with Mental Illness: Additional provisions passed in the omnibus jobs, economic development, energy and commerce bill also helped address the needs of those struggling with mental illness. Chapter 94 (introduced as SF1456) included employment support and rental assistance for persons with a mental illness.

**Status:** Signed into law by the governor on May 30, 2017 (Chapter 6).

COUNTY-SPECIFIC PROJECTS

While major statewide county initiatives in health and human services were not funded, there was movement on county-specific projects that sought innovative ways to address needs. Due to significant cuts to the health and human services budget, there was an emphasis at the Legislature for efficiency. One way the Legislature hopes these efficiencies may be accomplished is through innovation. The following are county-specific innovation projects that were funded in the final health and human services bill.

- Case Management/ITV: allows counties to use interactive video for some case management services when a client is in a licensed facility. This will not only improve accessibility to case managers for clients, but will also assist in reducing the amount of windshield time for county workers. To ensure the technology available for $51,000 was allocated in fiscal years 2018-2019 and $18,000 was allocated for fiscal years 2020-2021.
- Post-Arrest Coordination: allows for MA coverage for community-based service coordination for those suffering with mental illness post arrest but pre-booking. This serves as a diversionary measure to help individuals get the help they need rather than elevating a mental health crisis to the courts. If
counties chose to offer these programs, counties are responsible for the payment of the non-federal share of services provided.

- **Mental Health Innovation Grants:** Mental Health Innovation Grants were a recommendation of the Governor's Task Force on Mental Health. The recommendation of the task force was that the share counties paid for individuals at AMRTC and CBHH’s who no longer met medical criteria should be used to build out the mental health system in Minnesota to develop alternative placements for individuals who do not require the level of care at these facilities. This provision provides ongoing funding in the amount of $1 million per year for grants to organizations building upon the mental health system. A county may apply for these grants. Grant applicants require a letter of support from the local mental health authority. Additionally, counties would be consulted as a stakeholder in the final selection of grant recipients.

- **Dakota County Child Data Tracking Software Grant for Birth to Eight Project:** this grant will assist Dakota County in the development and implementation of a pilot project that will evaluate the impact of a coordinated system and service delivery approach on key developmental milestones and outcomes that ultimately lead to reading proficiency by age eight within a target population. The pilot program will run from July 1, 2017, to June 30, 2021.

- **Data Modernization Sharing Provisions:** allows limited information to be shared within the county system between county social services and law enforcement to allow community services to provide coordinated, integrated service delivery within the county system.

- **Pathways to Prosperity Financial Assistance Reform:** provides for a pilot program in Dakota and Olmsted counties to test an alternative financing model for young families receiving public assistance by removing barriers to success.

- **Dakota County Health Care Grant:** the commissioner of health will award a grant to Dakota County to partner with a community-based organization with expertise in serving Somali children with autism. The grant must address barriers to accessing health care and other resources by providing outreach to Somali families on available support and training to providers on Somali culture. Dakota County to report notable outcomes achieved by January 15, 2019. $110,000 existing appropriation that is to be expended by June 30, 2017.

- **Wadena County: Peer Respite Grant for community service providers.**

- **New provision for Benton, Sherburne, and Stearns Counties:** allows for a child care provider located within the boundaries of a city located in two or more of the counties of Benton, Sherburne, and Stearns the maximum rate paid for child care assistance.

- **Co-Parenting Education NorthPoint/Hennepin County:** to help fund a grant through NorthPoint that works with young parents on co-parenting skills that focus on the best interests of the child in a community based and supported setting.

**Status:** Signed into law by the governor on May 30, 2017 *(Chapter 6).*
**HHS OMNIBUS BILL**

The notable provisions below are of interest to counties and were included in the health and human services omnibus bill, which was signed into law by the governor.

**Human Trafficking**

Counties continue to have support at the Legislature for efforts that seek to end human trafficking. With elevated awareness of law enforcement to these issues, there are increased needs for services to victims. There were allocations in both the DHS and MDH agency budgets to address concerns. Additional funds were allocated for services, housing, and for MDH to conduct a strategic plan that will help the plan into the future.

**Child Care**

Over the interim, there was a legislative committee on the accessibility of child care. While there was some discussion of funding of the Child Care Assistance Program (CCAP) and requirements of the Basic Sliding Fee, the committee focused on concerns of providers with county licensors. As the committee traveled throughout the state and providers continued to express concerns about licensing requirements, the committee indeed focused on licensing and training. The following changes were made to address concerns:

- Child care correction order posting guidelines were changed so that if a correction order is appealed and the violation is overturned, the child care provider will no longer be required to post the correction order.
- The definition of “annual” was updated to include “within a 12-month period of a calendar year” to allow providers flexibility in meeting training requirements.
- Allows for an expedited review process for correction orders, and prohibits counties from having quotas for licensors regarding the number of child care correction orders.
- When a child care provider leaves the profession, the county is responsible for an exit interview of that provider as to the reason they are closing. This is intended to identify barriers to providing service.
- In lieu of a correction order county licensors may now issue a “fix-it ticket” to providers to quickly comply with minor infractions to avoid fines, and correction orders. Cases in which a “fix-it ticket” is issued are undefined by statute.
- Changes were made in how information is delivered to child care license holders. The commissioner shall inform family child care and child care center license holders on a timely basis of changes to state and federal statute, rule, regulation, and policy relating to the provision of licensed child care, the child care assistance program, the quality rating and improvement system, and child care licensing functions delegated to counties. Communications under this section may be accomplished by electronic means and shall be made available to the public online. This allows for statewide uniformity in the dissemination of information.
- Finally, there will be a report to the Legislature to further consider barriers to accessibility and affordability in regards to child care in the state of Minnesota.
**Home Visiting**

A program that has shown improvement in outcomes for children is home visiting, which has been a legislative priority for AMC in years previous. This year the fee-for-service MA rate for family home visiting increased to $140 per visit for evidence-based public health nurse home visits that are identified by MDH as MIECHV-eligible, however programs do not need to be funded by MIECHV to receive the increased rate.

Additional investment was also made in evidence based family home visiting. An additional $12 million in FY 18-19 was allocated for start-up and expansion of evidence-based family home visiting programs throughout the state. Eligible entities include CHBs, tribal governments and nonprofits.

**Chemical Dependency**

Substance abuse and disorder reforms this session to change how services are provided to individuals so that they can more easily access care. As clients access appropriate care more readily yielding in higher rates of success, Medicaid reimbursement relieves counties of the financial burden. The provisions passed achieve this by consolidating the Rule 25 assessment and the rule 31 treatment program, and directing the state to apply for the SUD waiver so that we can provide treatment in facilities with more than 16 beds by moving to a medical model. Additionally, provisions allow a Medicaid takeover of county share for detox as it is shifted to Medicaid reimbursement. As a result, detox would become a medical service under withdrawal management. These provisions can serve as cost reduction measures for counties.

Another major concern facing the state of Minnesota is the increasing number of deaths caused by opioid overdose. As such, efforts were made to limit the quantity of opioids prescribed and established a demonstration project to focus on the treatment of chronic pain and rehabilitation. Additionally, grant programs and pilot projects were established to address opioid addition, with $1 million in SHIP funding in 2018 becoming available to address this issue.

**Public Health Emergency Fund**

In response to the measles outbreak, a special revenue account was created to respond to immediate public health activities that would be required to protect the health and safety of the public. The fund set up with an additional $5 million, allows reimbursement to community health board or other local units of government for their work on this issue.

**Youth Re-entering Foster Care**

As there continues to be increasing demand on the child protection system it is critical that counties take a lead role in advocating for system improvements and the funding necessary to achieve successful outcomes for children.

Included this year is the ability of children to enter the foster care system from 18-21 for additional support services to transition into adulthood. This provision will increase county costs. While the estimated costs for these new services are limited, it still represents a continued shift of costs onto counties for these services rather than an increased state investment to support the child protection system.
NOTABLE STAND-ALONE HHS BILLS

Right to Counsel

A bill that passed this session requires county social workers to inform children over the age of 10 of their right to counsel in juvenile court proceedings. Previously it was the responsibility of the court to notify a child of their right to counsel, however as children are not always present for court proceedings, this responsibility was shifted to social services.

This bill was spearheaded by a young girl who was in and out of child protection proceedings without knowing of her right to counsel. While counties were not opposed to the spirit of this bill, it is unclear who will be paying for additional counsel. There are also concern about securing the number of attorneys needed in rural Minnesota.

Status: Signed into law by the governor on May 17, 2017 (Chapter 60).

Child Protection

As this session ended, counties were disappointed with additional items that were not included in the final bills. Counties have seen increased caseloads for child protection, and there are limited placements for out-of-home care, yet these items were not addressed in the bills that were passed. In fact, within a week following the end of the legislative session, a lawsuit was filed against the State of Minnesota and Hennepin County alleging that Minnesota is failing to provide children in foster care a safe environment, along with further failings in Minnesota’s child protection system.

AMC had worked to continue to invest in child protection this session via HF 2024, a bipartisan effort in both the House and the Senate. However, this bill did not move forward.

Status: Did not pass.
As is often the case, the Judiciary and Public Safety committees were relatively quiet this session. They did work through tough budget decisions, with both the House and Senate getting spending targets far below what the governor had proposed. In the end, the compromise bill provided significant funding increases for many of the items requested by the governor with minimal controversial policy being enacted this session. More details on a couple of exceptions to that are in the summary below. The Legislature was also able to gain agreement and passage of a bill to implement REAL ID.

CORRECTIONS/PROBATION

Probation Funding

The governor’s budget set a high bar in terms of increases for the pass through funds for Community Corrections Act (CCA) and County Probation Officer (CPO) counties with a proposed increase of 5.4%. This would represent the largest increase in close to two decades. In the end, increases for all three delivery systems were included in the budget at 3.6%. This amounts to $2.1 million for the CCA Subsidy, $230,000 for CPO reimbursement, and $696,000 for DOC field services.

Status: Signed into law by the governor on May 30, 2017 (Chapter 95)

Sentenced To Service Liability Clarification

A recent review of the existing statute that makes the state responsible for any liability related to injuries as a result of Sentenced to Service (STS) or community work service determined that there are some categories of STS participants, namely those working off supervision, jail pay-to-stay, or other administrative fees, were not covered. This exposed counties that used STS in this way to the liability. Legislation was proposed jointly by the DOC and AMC to provide clarification that all STS injury claims remain the state responsibility. The House and Senate both heard the bill with no controversy and it was included in the policy section of the omnibus bill.

Status: Signed into law by the governor on May 30, 2017 (Chapter 95)

Appleton Prison Facility

One of the more controversial pieces of legislation to work its way through the process this session dealt with the reopening of the vacant Prairie Correctional Facility in Appleton. The bill started out as a requirement that the DOC enter into negotiations to lease or purchase the facility from its current owner, private prison operator CoreCivic. Various iterations of the bill stepped back from the obligation to lease or purchase at this time by tying DOC assessment or potential use to any future request for expansion. Ultimately, the final omnibus public safety bill included a requirement that the DOC get a third party evaluation that must report on the condition of the facility, costs to bring it up to useable condition as a DOC
 facility, and estimated costs to operate the facility. A report based on this evaluation is due to the Legislature early next year.

**Status:** Signed into law by the governor on May 30, 2017 ([Chapter 95](#)).

**Alternative Options for Technical Violations**

A bill was introduced that sought to decrease the instances of non-violent drug offenders having their probation or supervised release revoked resulting in prison time. The bill requires thorough evaluation of community options for these offenders prior to a prison commitment. While this is new statutory language, it closely matches the revocation process probation officers use currently as guided by case law, so implementation should be relatively seamless. As part of the proposal, there was also $160,000 in annual funding allocated to expanded availability of the types of community resources these offenders need. The proposal was included in the omnibus bill.

**Status:** Signed into law by the governor on May 30, 2017 ([Chapter 95](#)).

**Data Sharing for Corrections Case Planning**

This bill was introduced by the DOC in order to allow the transfer of case plan information (including information that typically had not been shared) for offenders whose supervision is transferred from one jurisdiction to another while ensuring that the private data stays private even as it moves from one government entity to another.

**Status:** Signed into law by the governor on May 23, 2017 ([Chapter 83](#)).

**Sex Offender Sentencing and Supervision Changes ([H.F. 1572/S.F. 1895](#))**

Legislation was introduced that would have made a number of changes to sex offender sentencing law and supervision practices. The bill contained changes to sentences for possession and distribution of child pornography that met little resistance. Of more controversy were the provisions that eliminated the use of stays of adjudication and stays of imposition for sex offenders, created a new intensive supervised probation program, and lifetime probation and conditional release for these offenders. Multiple county stakeholders, including county attorneys and probation, expressed concerns about this language due to cost, caseload, and policy considerations. As the House moved the bill forward, some of the cost was funded, but ultimately the Senate never considered the proposal and it was not included in the final bill.

**Status:** Did Not Pass.

**Supervision of Felons in CPO Counties ([H.F. 813/S.F. 1029](#))**

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 DOC in those counties.

**Status:** Did Not Pass.
EMERGENCY MANAGEMENT

Disaster Aid Contingency Account

In the initial budget proposed by the governor, a one-time appropriation was recommended to the disaster aid contingency account of $20 million. This account was created a couple of years ago, with strong county support, to eliminate the need for special sessions to allocate the state match for federally declared disasters and also to create a source of funds for counties that do not meet the federal threshold. These additional funds were needed to ensure an adequate balance to meet future disaster needs.

Ultimately, the target for the omnibus bill did not have room for this appropriation, but the Legislature did include a provision that would move $10 million to the account if there is a sufficient fund balance above projections at the end of this fiscal year (June 30, 2017). If there is a fund balance, but less than $10 million, whatever amount there is will be transferred.

Status: Signed into law by the governor on May 30, 2017 (Chapter 95).

Rural Utility Cooperatives

This provision adds rural utility cooperatives to the list of eligible recipients of disaster aid funds. Including them in Minnesota statute is consistent with federal practices.

Status: Signed into law by the governor on May 30, 2017 (Chapter 95).

REAL ID

The Legislature got off to a quick start on discussing Minnesota’s compliance with the federal REAL ID requirements (the House version of the bill was HF 3), but the discussion quickly bogged down over differing approaches to policy surrounding drivers’ licenses for undocumented immigrants. Ultimately, language that limited the ability of DPS to revise the rules that currently prohibit those licenses (this effectively makes the prohibition in rule permanent unless the Legislature acts to change it) was included in the omnibus public safety bill clearing that path for passage of REAL ID with only a few votes against.

DPS will begin issuing REAL ID compliant licenses no later than October 1, 2018. It is expected that with the passage of this legislation, the state’s application for an extension on compliance will be granted and Minnesota licenses will be sufficient ID to board commercial aircraft until mid-year 2020. The bill does not increase the fee for REAL ID licenses and it is unclear if county deputy registrars will see a significant workload increase in issuing these licenses without additional funding for the work. The bill also provides that citizens that would prefer to not have a REAL ID license, and the data sharing with the federal government that goes along with it, can get a non-compliant license at their option. Finally, the bill provides a process by which, for a nominal fee of $3-5, people with current licenses that expire after compliance is required in 2020 can get a REAL ID compliance license with an extended expiration date. (For example if a person renews in 2017, the license would expire in 2021 and their subsequent license would expire in 2025. That person can pay the small fee, in addition to their regular renewal fee, in 2020 and get a compliant license that is good until their usual 2025 renewal date).

Status: Signed into law by the governor on May 18, 2017 (Chapter 76).
LAW ENFORCEMENT

Training Requirements and Funding

Both the governor and the Legislature placed a high priority on funding for expanded training for law enforcement officers in light of the serious mental health related situations officers face on a daily basis as well as the high profile incidents involving police that we have seen in the last couple of years. Toward that end, law enforcement training requirements were updated to state that “state and local law enforcement agency shall provide in-service training in crisis intervention and mental illness crises; conflict management and mediation; and recognizing and valuing community diversity and cultural differences to include implicit bias training to every peace officer and part-time peace officer employed by the agency.” These additional training requirements were accompanied by an appropriation of $6 million per year for reimbursements to law enforcement agencies to cover the costs of additional training. The funding sunsets after four years, though the requirements are permanent.

Status: Signed into law by the governor on May 30, 2017 (Chapter 95).

Sheriff Conveyance Fee

This proposal streamlines the process by which the DOC pays county Sheriffs for transporting offenders to DOC facilities upon conviction. The process was developed as part of a joint process improvement effort between the DOC and the Minnesota Sheriffs’ Association.

Status: Signed into law by the governor on May 30, 2017 (Chapter 95).

Prescription Drug Collection

This legislation would require that all sheriffs in the state make available a collection box for unused prescription medications. There are many sheriffs that already provide this service and the language does allow the sheriff to meet this mandate through an agreement with another provider. When non-law enforcement providers are accounted for, nearly every county in the state already meets this requirement.

Status: Signed into law by the governor on May 30, 2017 (Chapter 95).

OTHER PUBLIC SAFETY LEGISLATION

Criminal Justice System Funding

Below is a summary of the funding the Legislature allocated to other part 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 3.5%) and their full request for health care costs, information security, mandated services, two new judges (in the 7th and 9th judicial districts), and treatment courts. In total, courts saw an increase of nearly $41 million for the biennium.

- The public defenders received their full request for health care costs, a little over half of their request for salary increases and about a third of their request for new attorneys. New funding for the biennium totals about $9 million.
• DPS received full funding of staff salary and health care costs and partial funding requested for new initiatives, primarily linked to new staff in the Bureau of Criminal Apprehension (BCA). Also included were grants through the Office of Justice Programs for Pathways to Policing, Terrorism Recruitment Reduction, and Sex Trafficking prevention, totaling a combined $1.26 million for the biennium.

• The DOC received their full request for staff salaries and health care costs as well as requested increases for offender health care, food, and utility costs. Also funded were requests for technology modernization and increased costs for services provided to the agency by MN.IT. Their requests for expanded mental health services, nursing and other initiatives went unfunded.

• Finally, the bill included reductions in the Civil Court filing fee, the Family Court motion fee, the Child Support Modification motion fee, and the elimination of the Harassment Restraining Order Respondent filing fee. In total, these fee changes reduced revenue collected by the state by roughly $6.8 million for the biennium.

Status: Signed into law by the governor on May 30, 2017 (Chapter 95).

Treatment Courts

In addition to the court funding noted above, the court’s request of the Legislature included just under $1.7 million per year in ongoing funding for treatment court sustainability (the courts have made a decision to use the term “treatment courts” for all types of drug courts and other problem-solving courts). About a year ago, the courts proposed moving to a formula based funding model for treatment courts. This funding is designated for existing treatment courts and will allow for the implementation of the formula plans without any reduction in funds to these programs. It was included, at the court’s requested funding level, in the final omnibus bill.

Status: Signed into law by the governor on May 30, 2017 (Chapter 95).

Law Library Funds

Legislation was introduced that would have allowed county law libraries with a significant reserve balance to contribute a portion of those funds to construction of a new facility. The bill passed the Legislature granting this authority statewide but was vetoed by the governor. The final omnibus bill did include language to allow this in Sherburne County, where the legislation originated, and where the law library board has already agreed to this arrangement.

Status: Signed into law by the governor on May 30, 2017 (Chapter 95).
Transportation & Infrastructure

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

After a tumultuous end to the 2016 session – when the transportation bill was left in conference committee and the bonding bill failed in the final minutes of session – many were hopeful that 2017 would be the year for action. Then came an election that brought many new legislators to the Capitol and changed control of the Senate; the 2017 session was bound to be interesting.

Since the last comprehensive transportation bill passed in 2008, many transportation advocates hoped that 2017 would be the year when the Legislature would finally pass a new plan. And when last year’s bonding bill failed to pass – in a bonding year no less – it seemed imperative that the Legislature pass a substantial public works bill this year. In the end, both a transportation bill and bonding bill made their way to the governor’s desk. Here is a look at how it all unfolded.

TRANSPORTATION FINANCE AND POLICY

After several years of unsuccessful bids for the Legislature to pass a transportation package, AMC stressed the importance of transportation funding by making it one of our top priorities again: **AMC supports a comprehensive transportation funding package that includes new revenue for roads, bridges, and transit.**

When the governor released his budget bill this year, it was similar to his proposal from the previous biennium. The governor strived to fund the estimated $6-billion-dollar transportation funding gap by proposing a 6.5% gross receipts tax on gasoline, increasing vehicle registration fees, trunk highway bonding, and MnDOT efficiencies.

While legislators from both sides of the aisle campaigned on the need for transportation funding, it seemed unlikely that the House and Senate would be relying any tax increases for transportation, as the governor was recommending. At the end of the 2016 session, we saw the House inch slightly in favor of increasing the tab fees or changing the tab fee depreciation schedule, but it was unclear if that idea was supported by House leadership.

When legislative budget targets were released, we saw a plan from the House that included $450 million for transportation that would go into a newly created Transportation Priorities Fund and the Senate proposal totaled $400 million for transportation that would flow directly into the HUTDF. The first iterations of both the House and Senate transportation omnibus bills included language shifting general fund dollars from the sales tax on auto parts, auto repairs, and auto rentals to transportation, in addition to transferring all revenue from the Motor Vehicle Lease Sales Tax (MVLST) to transportation – including the first $32 million that had previously been going to the general fund. Both plans included trunk highway bonding and money for the Corridors of Commerce. Other highlights from the original proposals include House language that added a $85 surcharge on electric vehicles as part of the annual motor vehicle registration fee, and $24.7 million in funding for the Local Bridge Replacement Program (from MVLST revenue).

Both bills included items that were not supported by AMC. The Senate included language which redirected $117 million from the Flex Account, which currently goes towards turnbacks, to the Trunk Highway Fund. This brought about concern since several counties are currently waiting for funding from this account for turnbacks that have already been completed, and whether or not they would receive the funding if it was redirected to the Trunk Highway Fund was a major worry.
The original House language provided very little funding to the Metropolitan Council as well as some less than ideal policy language surrounding transit; including elimination of the Counties Transit Improvement Board (CTIB) as well as provisions that would have required CTIB counties to pass a referendum to increase the one quarter of one cent transportation sales tax that is available to the other 82 counties. There was also language requiring legislative approval of all future light rail projects, additionally requiring CTIB counties to fully fund operations and capital maintenance on existing light rail transit.

Both the House and Senate bills also included policy language regarding increased truck weights. Earlier this session we saw standalone bills introduced that would allow for a special permit for overweight trucks hauling construction materials, as well as a bill to allow for an additional ten percent weight increase for trucks hauling fluid milk. The first House and Senate proposals included both of the weight increases, but then the Senate removed them during floor debate. This provided a small bit of hope that maybe the conference committee proposal would not include them, but in the end, both were found in the conference committee report.

As session went on, we saw the transportation budget target drop to $372 million and then again to $300 million for the final special session transportation bill. Each time the budget target decreased, so did the amount of general fund revenue going to transportation from the sales tax on auto parts. The final bill included $63 million to transportation from the sales tax on auto parts – a far cry from the originally proposed $307.9 million. Because this funding stream was not dedicated, the Legislature has already demonstrated how that money could diminish even more in the future if funding is needed elsewhere.

The final bill does not include any additional constitutionally dedicated money other than a $75 electric vehicle surcharge (down from $85 in the original House proposal). The total CSAH appropriation for FY 18-19 is $66.373 million with a direct HUTDF increase of $22.962 million in FY18 and $24.752 million increase in FY19. As mentioned earlier, the entire MVLST revenue will now flow directly to transportation. Previously, the first $32 million of MVLST money was going to the general fund. The MVSLT allocation will be distributed as follows in FY18-19:

- 13% Local Bridge Program: $25.194 million.
- 38% to Greater MN Transit: $73.644 million.
- 38% to 5 Metro Counties: $73.644 million.

The final version of the bill also includes the language allowing for a special overweight permit for trucks hauling construction materials. While AMC did not support the addition of this language, it was amended to require a permit at the local level, which is a provision AMC had pushed for when the standalone bill was introduced earlier this session. Bill language also cleaned up the definition of construction materials to have a more limited scope. The final transportation omnibus bill did not include language allowing for a ten percent weight increase for trucks hauling fluid milk, as that bill passed as a standalone (see below).
In the end, after years of advocating for a comprehensive transportation plan, a bill that begins to address the funding needs across the state finally passed. While AMC had hoped the bill would include new revenue from a constitutionally dedicated source, it does provide a total of $235 million in new revenue for roads and bridges as well as $71 million in general fund dollars for Metropolitan Area transit for the next two years. This is a step in the right direction and will provide much needed funding to Minnesota counties.

**Status:** Signed into law by the governor on May 30, 2017 (1st Special Session: Chapter 3).

**LOCAL ROAD WETLAND REPLACEMENT PROGRAM**

Another one of AMC’s top priorities this year was funding for the Local Road Wetland Replacement Program: AMC supports the immediate need for short-term cash funding for the Local Road Wetland Replacement Program (LRWRP) and long-term continued funding of the program.

After years of underfunding and zero funding in 2016, the future of the wetland replacement program was in jeopardy. It was critical for the Legislature to provide one-time immediate funding this session in addition to bonding dollars in order to get the program back on track.

The LRWRP was enacted in 1996, after local governments vigorously objected to the unfunded mandates inherent in the Wetlands Conservation Act (WCA). Because of their objections, local road authorities were exempted from WCA’s wetland replacement requirements for design or safety improvements to existing roads and the state assumed the obligation and costs to replace lost wetlands. Local road authorities continue to pay the full amount for wetland replacement on new roads. Traditionally, BWSR has met this obligation by restoring, replacing, and preserving wetlands throughout the state’s wetland bank service areas (BSAs) to provide wetland banking credits for use by the local road authorities to mitigate wetland impacts.

As of last fall, a number of BSAs had been drained of credits for local road projects due to the lack of funding in recent years. BWSR gave notice that they would be closing some of the banks and that more might be shut down in the coming year. In addition, BWSR announced that they would stop using wetland credits generated in one BSA to mitigate wetland impacts in another BSA, which was a practice used of late due to the shortage. If BWSR fails to mitigate wetlands for an existing road construction project, the local unit of government is required to pay for wetland replacement credits on the private market at a much higher cost. The announcement from BWSR came late in the fall after counties had set their property tax levies, jeopardizing construction projects across the state.

Language was introduced at the start of session to provide a one-time general fund appropriation of $5 million for the program as well as $10 million in bonding authority. The bill also includes regulatory relief language – requiring use of wetland replacement credits from outside the applicable BSA area if necessary, and temporarily relaxes the state’s requirements to be equal to the federal exemption. Eventually, the Legislature removed the bonding authority from the bill so as to not muddy the progress. The intention was to include the $10 million bonding authority in the House capital investment bill.

Luckily, the Legislature moved quickly to provide funding and regulatory relief and passed H.F. 434, which was then signed by the governor on March 10. The final bill included the $5 million appropriation to BWSR to acquire wetland bank credits and provide wetland replacement statewide for eligible county, city, and township road projects under the LRWRP. The four wetland BSAs that were previously closed or proposed to be closed are open. Credit trading between BSAs and an exemption equal to the federal exemption went
into effect immediately until wetland bank credits sufficient to replace wetlands for all LRWRP eligible road projects in all BSAs are established.

While this was the first big accomplishment of the session, it should be noted that AMC efforts to fully fund the program continue. $10 million of bonding authority was required in order for BWSR to fully fund the program for 2018 and beyond. As you will read below, the Legislature authorized $5 million in bonding this year, which is a great start. We will continue to push for continued bonding authority next session.

**Status:** Signed into law by the governor on March 10, 2017 (Chapter 7).

### BONDING

Last year’s bonding bill drama ended in the final minutes of session on the Senate Floor when an amendment was added relating to the Southwest light rail line project. The bill had already passed on the House Floor before the Senate added the amendment, and there was no time to send it back to the House for re-passage. There was much talk over the interim of whether or not the governor would call a special session to pass a bonding bill. In the end, a special session never happened and many wondered where we would start this year. While bonding years are typically the second year of the biennium, many figured that legislators would be willing to consider a more substantial bonding bill this year, in a budget year, because of last year’s inaction.

The Senate introduced a bonding bill early this session that was almost identical to last year’s bill. At close to $1 billion dollars in capital investments, the bill author and Senate Capital Investment Committee Chair introduced it to fulfill the legacy of the former Chair, Senator LeRoy Stumpf, who retired after last session. The only trouble is that bonding bills need to originate in the House, and the House Capital Investment Chair had other plans.

The House unveiled its $600 million bonding bill in early May. With assurances from that the total number would increase, the first version of the bill included $59 million for the Local Bridge Replacement Program and $107 million for the Local Road Improvement Program (with some designated earmarks), and $5 million for the Local Roads Wetland Replacement Program.

The second version of the bill totaled $800 million and included the same funding levels for the local road and bridge programs and the LRWRP as the first proposal. Unfortunately, the additional $200 million was not enough to win members over. Bonding bills need a three-fifths approval vote in both the House and Senate for passage, not just a simple majority. Ultimately, the bill failed by a vote of 70-62 on the House Floor.

The negotiated agreement for the special session bonding bill totaled $988 million in general-obligation bonding for public works projects across the state. While the final bill is almost $200 million more than the previous version of the bill, overall numbers for local transportation programs went down slightly. The Local Bridge Replacement Program will receive a total of $49.212 million, with $31.875 million earmarked for the 10th Avenue Bridge in Minneapolis and $800,000 earmarked for the Malone Avenue Bridge in the City of Isle, leaving $16.537 million for the program as a whole. (It is important to note that the transportation omnibus bill does include a general fund appropriation of $25 million to the Local Bridge Replacement program for FY18-19) Similarly, the Local Road Improvement Fund will receive a total of $115.932 million with 11 earmarked projects included and $25.336 million going directly to the LRIP Program.
As mentioned above, the final bonding bill includes $5 million for the Local Road Wetland Replacement Program, which is $5 million less than the $10 million needed for the program to be fully funded over the next two years.

H.F. 5 passed with overwhelming bipartisan support in both bodies. The House passed the bill by a vote of 119-11, and the Senate passed the bill by a vote of 60-2.

**Status:** Signed into law by the governor on May 30, 2017 (1st Special Session: Chapter 8).

### BROADBAND

Again this year, AMC made broadband funding one of its priorities: AMC supports the build-out of broadband infrastructure in Minnesota, including legislation that would provide funding for the Office of Broadband Development and continued funding for the Border-to-Border Broadband Development Grant Program.

The Border-to-Border Broadband Grant Program received $35 million from the Legislature last year. The 2017 grants totaled $34 million for 42 broadband infrastructure projects that will provide 16,627 households, 2,240 businesses, and 71 community institutions across Minnesota access to reliable, affordable, high-speed internet.

In an effort to continue the momentum, the governor's initial budget request called for $60 million to the grant program over the biennium ($30 million in 2018, $30 million in 2019). Early legislative proposals in the House included only $7 million in 2018 for the grant program, and the Senate proposal had $20 million over the biennium. In the end, the omnibus bill directs $20 million to the Border-to-Border Grant Program in FY18 only, and $250,000 in both years of the biennium to fund the Office of Broadband Development. While it would be preferable to receive funding over both years of the biennium, the amount allotted to the grant program in 2018 will go a long way to fund broadband infrastructure projects across the state.

**Status:** Signed into law by the governor on May 30, 2017 (Chapter 94).

### OTHER LEGISLATION

#### Truck Weights

There were two increased truck weight bills introduced this session – one regarding construction materials and the other dealt with the transport of fluid milk.

The construction materials bill created a special permit that increases the permissible gross vehicle weight for six- or seven-axle vehicles hauling construction materials. A number of the requirements are the same as are in law for other special vehicle weight permits (such as the agricultural products special permit). Among the differences in this bill, a permit issued by MnDOT can be used on local roads, and permit revenue to MnDOT is allocated to the town road account and available for town bridge inspection and posting. Other weight exemption permits, such as the one for agriculture products, require a permit from all road authorities. AMC worked with the House author to try and find permit language that would work for all parties. Unfortunately, we were unable to find agreement on language that allowed for permitting by the local road authorities. The bill was amended to require the commissioner of the Department of Transportation to make information available to local road authorities regarding permits issued and encouraged permit applicants to provide comment on identification of preferred routes (upon request of
local road authority), and to operate the vehicle on the preferred routes. The bill as amended was included in the House and Senate transportation omnibus bills. During the conference committee process, the language was amended to narrow the definition of construction materials, and the final special session version of the bill allowed for local permitting authority. In the end, the construction materials language remained in the special session transportation bill, which has been signed into law by the governor.

The second truck weight bill of the session involved the transport of fluid milk. The bill increases weight limits by ten percent for single-unit vehicles transporting fluid milk from the point of production to another point of production or the first point of processing, without a special permit required.

As mentioned above, both the construction materials weight increase and the fluid milk weight increase language were included in the House and Senate transportation omnibus bills. The milk truck language was removed in one of the last versions of the conference committee report, and instead the House moved forward with the bill as a standalone. It was amended on the House Floor to include civil enforcement language, which is supported by AMC.

**Status:** Signed into law by the governor on May 23, 2017 ([Chapter 86](#)).

**Ditch Mowing**

Early this session we saw the introduction of legislation regarding ditch mowing and haying. The legislation was in response to MnDOT’s announcement in late November 2016 to expand its statewide permitting standards for mowing and haying in the right-of-way. This announcement came at the shock and dismay of many farmers across the state. The bill introduced as a result prohibited all road authorities from implementing a permit process regarding haying and mowing on public rights-of-way. The MnDOT expanded permit is in regard to mowing and haying on state highways, not local roads, yet the bill language originally prohibited all road authorities from implementing a permit process. While many, if not all, local road authorities do not require a permit for mowing or haying, many have a longstanding notice process in place with local landowners that they would like to continue. AMC worked directly with the bill author to remove language applying to all road authorities, instead focusing the bill on state highways. The bill made its way through the committee process and passed off the House floor while the Senate companion remained in committee.

When the Senate finally heard the companion bill in committee, there was an amendment to remove the agreed upon House language and insert a moratorium prohibiting MnDOT from requiring permits to mow or hay the right-of-way on a trunk highway until after April 30, 2018. This language passed out of committee and passed on the Senate floor, only to be amended again on the House floor to expand the moratorium language to require MnDOT to report back to the Legislature no later than March 1, 2018, with a plan to establish a permitting process going forward. The amendment also asked MnDOT to seek input from agriculture and environmental groups when putting together the report. The Senate eventually concurred with the House language and re-passed the bill. The new language does not change current state law governing the mowing of ditches, including the prohibition on doing so before August 1.

**Status:** Signed into law by the governor on April 7, 2017 ([Chapter 15](#)).

**Small Cell Wireless Technology**

The small cell wireless bill was introduced to create a framework for the placement of small wireless facilities on support structures owned by local government units. The bill was pushed by wireless carriers as they
prepare to install infrastructure to create a new 5G cellular network in Minnesota. Small cell facilities is a broad term for the types of cell sites that support antennas plus other equipment to add data capacity. Small cell equipment and distributed antenna systems (DAS) transmit wireless signals to and from a defined area. They need to be powered continuously and require fiber backhaul.

There are major concerns at the local level regarding where the small cell technology is installed and at what cost. Negotiations on this bill were extensive and continued throughout session. The language was originally added to the House omnibus jobs, economic development, commerce and energy bill, and then later removed until the parties could come to an agreement. It then moved forward as a standalone once there was agreement by the local units of government and the wireless carriers.

The language in its final version was again included in the omnibus jobs, economic development, commerce and energy bill. The language makes placement of small wireless facilities a permitted use in a public right-of-way, except in areas zoned for single-family residential use and in designated historic districts, where a conditional use or special permit may be required. No support structure may extend higher than 50 feet from the ground, subject to local zoning regulations, unless it is replacing an existing structure that is above that height, in which case it can be no higher than the existing support structure. Local government units may regulate minimum distances between wireless support structures and may charge up to $150 per year per small wireless facility, plus up to $25 annually for maintenance, and a monthly fee for electricity costs to occupy space on a support structure owned by a local government unit.

In the end, the League of MN Cities and other local government groups remained neutral on the bill language that was ultimately included in the bill and signed into law.

**Status:** Signed into law by the governor on May 30, 2017 *(Chapter 94).*

*Updated June 30, 2017*