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2018 Regular Legislative Session Overview

Many aspects of county government were affected in one way or another in 2018. Read on for an overview of the session and how counties fared.

General Overview
In the second year of the biennium (or “short year” due to the fact that the two-year budget is already in place and session typically starts later), it is often difficult to predict what may happen. Issues from the first year of the biennium can cast a shadow over the second year, which was the case in 2018. We went into the year with amplified tension between legislative leadership and Governor Dayton due to lawsuits related to issues surrounding the end of the 2017 session. We also learned early on that an anticipated deficit turned around to a surplus as the result of several factors, including federal initiatives and revenue collections that outpaced predictions.

With a potential supplemental spending bill now on the table, several large policy and spending issues quickly took center stage: the federal Tax Cut and Jobs Act changes that needed to be reconciled with state policies; Minnesota Licensing and Registration System (MNLARS) issues; the opioid crisis; school security and gun safety; elder care and a multitude of other issues were all being discussed passionately within the first days. And to top it off, the upcoming 2018 elections for all Minnesota House seats, Congressional and Senate seats, the governor’s office and other statewide offices seemed to be ever present in the back of people’s minds from the start.

Governor Dayton sent a letter to legislative leadership well before the end of session outlining a process which, from his perspective, would lead to successful negotiations and outcomes. As is typical for legislators of all parties, large pieces of legislation were being passed by the House and the Senate up until the last hours of the legislative session. Several bills, including an omnibus supplemental funding bill and a tax conformity bill, were sent to Governor Dayton’s desk without full prior agreement, which ultimately lead to their being vetoed. Those high profile issues somewhat overshadowed the fact that over 80 bills were successfully signed into law this year, including the capital investments (bonding) bill and a pensions bill.

Several of AMC’s legislative priorities were successfully addressed. Please read on for more detail.

AMC Intergovernmental Services Staff

Executive Director
Julie Ring
ring@mncounties.org

Legislative Coordinator
Anne Kilzer
Office: 651-789-4323
akilzer@mncounties.org

Environment & Natural Resources
Jennifer Berquam
Office: 651-789-4322
jberquam@mncounties.org

General Government, Taxes & County Operations
Matt Hilgart
Office: 651-789-4343
mhilgart@mncounties.org

Health & Human Services
Emily Babcock
Office: 651-789-4325
ebabcock@mncounties.org

Public Safety & Corrections
Ryan Erdmann
Office: 651-789-4345
erdmann@mncounties.org

Transportation, Infrastructure, Energy & Bonding
Emily Murray
Office: 651-789-4339
emurray@mncounties.org
How Counties Fared

In short, this session was a mixed bag for counties. While a lot of progress was made on many important issues, some suffered unfortunate end of session politics.

The successful passage of the December 2017 federal Tax Cut and Jobs Act (TCJA)—and the repeal of many itemized deductions—represented both a major increase in general revenue funds and conversely, the potential for increased tax burdens for Minnesota filers if the Legislature failed to act. With this threat looming over the 2018 session, a response to tax conformity became a priority of the Legislature as well as the administration. Senate and House tax committees spent months of hearings to review impacts and ultimately agreed to a tax proposal that would move Minnesota from Federal Taxable Income (FTI) to Federal Adjusted Gross Income (FAGI) along with preserving certain itemized deductions such as state and local taxes and lower first and second tier income tax rates, among several other provisions. In the end, however, the governor vetoed the bill due to concerns about its size and worries about long term budget sustainability. Time will tell if Governor Dayton will call a special session prior to 2019 session to prevent filers from an arduous—and potentially costly—2019 filing season.

Also prior to the start of session, the Department of Public Safety (DPS) and MN.IT identified a need of $43 million to fix MNLARS, with the first $10 million needed at the start of session. While it was a few weeks later than requested, that first $10 million was approved by the Legislature. The vetoed Omnibus Supplemental Finance bill included about half of the remaining $33 million requested as well as $5 million in reimbursement funds for deputy registrars. The Legislature also sent a stand-alone bill to the governor with $9 million in reimbursements for deputy registrars. Because it didn’t include funds for system fixes and because it came from a special revenue account in DVS, the governor also vetoed that funding.

AMC did fare well in the bonding bill this year. The infrastructure-heavy plan contains $1.43 billion in total appropriations; $825 million of which would be general obligation bonding. AMC’s transportation priority this year was focused on funding through the bonding bill for three major programs: the Local Road Wetland Replacement Program (LRWRP), the Local Road Improvement Program (LRIP), and the Local Bridge Replacement Program (LBRP). Each program received funding in the bonding bill - $6.7 million for the LRWRP, $35 million in undesignated funding for the LRIP, and $5 million for the LBRP.

<table>
<thead>
<tr>
<th>AMC Priority Items Scorecard 2018</th>
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<tbody>
<tr>
<td><strong>LAND ACQUISITIONS</strong></td>
</tr>
<tr>
<td>+ Success</td>
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<tr>
<td>Statute now requires counties to be notified of land acquisitions funded through the outdoor heritage fund.</td>
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<tr>
<td><strong>METS</strong></td>
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<tr>
<td>+/- Partial Success</td>
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<tr>
<td>The rollout of Periodic Data Matching was delayed until July and the state is designing a statewide field test and evaluation.</td>
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<tr>
<td><strong>MENTAL HEALTH</strong></td>
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<tr>
<td>+ Success</td>
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<tr>
<td>The bonding package included $28.1 million for behavioral health crisis centers and $30 million for supportive housing for individuals with behavioral health needs.</td>
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<tr>
<td><strong>OPIOIDS</strong></td>
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<tr>
<td>- Success</td>
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<tr>
<td>Bills imposing fees on pharmaceutical companies to help fund the state’s response to opioid abuse failed. The governor vetoed the supplemental funding bill that included general funds for pilot projects and community grants.</td>
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<tr>
<td><strong>BROADBAND</strong></td>
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<tr>
<td>- Success</td>
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<tr>
<td>$0 for broadband after Governor Dayton vetoed the supplemental funding bill, which included $15 million for the Border-to-Border Broadband Grant Program.</td>
</tr>
<tr>
<td><strong>TRANSPORTATION</strong></td>
</tr>
<tr>
<td>+ Success</td>
</tr>
<tr>
<td>The bonding bill included $35 million for local roads, $5 million for local bridges, and $6.7 million for the Local Road Wetland Replacement Program.</td>
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The biggest win for counties in health and human services was also related to the state bonding package, which included a significant appropriation for mental health. The bonding bill includes $30 million for behavioral health crisis centers, including $1.9 million designated for a Scott County crisis stabilization facility. The statewide investment is critical to addressing the service gaps exist in the behavioral health system; counties will be able to work with local stakeholders in planning the initiatives that will meet the needs in their communities. In addition, the bill includes $30 million for supportive housing for individuals with behavioral health needs. Housing is often one of the most significant barriers for individuals with serious behavioral health issues, and this funding will help further build out the continuum of care and reduce barriers to recovery.

Beyond the bonding bill, there were other wins for counties. Related to another one of AMC’s 2018 priorities, statute now requires counties to be notified of land acquisitions funded through the outdoor heritage fund. Periodic Data Match (PDM) was scheduled to roll out during session, but the Department of Human Services announced a delay until July. Counties are working with the state’s IT governance to design a proposed field test of PDM.

As mentioned in the introduction, the House and Senate leadership failed to garner agreement from Governor Dayton prior to sending a large supplemental budget bill to his desk for signature. This was disappointing, as several items supported by AMC were in the Omnibus Supplemental Finance bill which was ultimately vetoed. For instance, the environment and natural resources provisions included $300,000 to develop online training programs for county feedlot officers; $335,000 for statewide aggregate mapping; and drainage workgroup recommendations pertaining to drainage authorities and acquiring buffer strip easements. In health and human services, the vetoed bill included key provisions related to opioid abuse, elder abuse, and the pending cuts to both children’s residential treatment centers and reimbursement rates for disability services.

One of the biggest disappointments of this session was related to broadband funding. While the Legislature included $15 million from the general fund in the Omnibus Supplemental Finance bill for the Border-to-Border Broadband Grant Program, Governor Dayton’s veto means funding for broadband is at zero for 2018. This program has been funded on an annual basis and there will be no money for the grant program this year.

To end on a positive note, perhaps the major silver lining at the end of session is that the omnibus pensions bill (SF 2620/HF 3053) passed both chambers on a unanimous vote and was signed by Governor Dayton. Chapter 211 was supported by AMC, local government organizations and employee representative groups. It makes several structural changes to PERA general, Correctional, and Police and Fire plans which will increase the overall financial sustainability; taking away early retirement incentive components employers have traditionally been opposed to—including a COLA payment on early retirement—and adding language to make plans “fully actuarial equivalent.” After two years of failed/vetoed bills, AMC is grateful for the hard work of legislators, PERA staff, and employee representatives to move this significant pension package across the finish line!

Looking Ahead
With session now over, the fall 2018 elections already dominate the news cycle. Until that dust settles, it will be difficult to anticipate what the 2019 session will bring. AMC staff, however, will be standing ready to ensure that policy makers – whether new or seasoned – understand the ramifications of their decisions for
counties. We look forward to working with our members in the interim to shape the 2019 platform and identify priorities for the upcoming year.

Environment & Natural Resources

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

There was significant activity in the environment and natural resources area this session, and while many bills and issues were considered, in the end not many provisions passed. Two legislative priorities for 2018 that were selected by the AMC Environment and Natural Resources Policy Committee during the Fall Policy Conference were enacted this session. These two priorities are 1) county notification of state funded land acquisitions and 2) alternatives for generating more state-owned wetland credits. Significant effort was undertaken this session to pass a third priority relating to timely and consistent permitting of demolition debris landfills, but ultimately the provision did not pass due to concerns from the Minnesota Pollution Control Agency (MPCA) and the governor.

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 - a few that passed, and many that did not. The majority of the provisions in this summary were included in the Omnibus Supplemental Finance bill (SF 3656 or Chapter 201) which was vetoed by the governor.

AMC PRIORITY: LAND ACQUISITIONS

County Notification of State Funded Land Acquisitions (HF 3423/SF 3167)

This bill includes appropriations from the outdoor heritage fund to support projects recommended by the Lessard-Sams Outdoor Heritage Council (LSOHC). It also includes two provisions relating to county notification of land acquisitions (section 3 of the bill). The first provision requires, by July 1 of each year, that LSOHC staff provide counties with a list of project proposals that include potential fee title land acquisitions in the county. The second provision requires a nongovernmental organization to notify county and township boards, in writing, at least 30 days before closing on an acquisition of land in fee title with money from the outdoor heritage fund.

Status: Signed into law by the governor on May 29, 2018 (Chapter 208)

ANIMAL AGRICULTURE

County Feedlot Program Base Appropriation Increase (HF 2417/SF 2114)

This bill increases the base appropriation for the County Feedlot Program from $1.959 million per year to $2.5 million per year. The bill received a hearing in the Senate Environment and Natural Resources Finance Committee and was laid over for possible inclusion in the committee omnibus bill. The funding was not included in the omnibus bill this session and did not pass.

Status: Did not pass

Online Training Curriculum (HF 3052/SF 2854 & SF 3656, Article 19, Section 2)

This bill appropriates $300,000 for the Minnesota Association of County Feedlot Officers (MACFO) to develop, in conjunction with the MPCA and University of Minnesota–Extension, an online training curriculum related to animal feedlot requirements. The language was incorporated in the Omnibus Supplemental
Finance bill as part of the environment and natural resources article, which was ultimately vetoed, so it did not pass this session.

*Status: Vetoed by the governor on May 23, 2018 (Chapter 201)*

**Truck Washing Facilities Wastewater (HF 3216/SF 2839 & SF 3656, Article 20, Section 77)**

Under current law, until July 1, 2022, the MPCA and counties generally cannot permit the construction of a new open-air swine basin. This bill clarifies that the prohibition does not apply to storage basins used solely to hold wastewater from a truck washing facility. The language was incorporated in the Omnibus Supplemental Finance bill as part of the environment and natural resources article, which was vetoed and did not pass this session.

*Status: Vetoed by the governor on May 23, 2018 (Chapter 201)*

**BUFFERS & SOIL LOSS**

**Buffer Compliance Waiver (SF 3141, Article 20, Section 90)**

Language was added to the Senate Omnibus Environment and Natural Resources bill this session that extended by one year, to July 1, 2019, the conditional compliance waiver for public waters buffer requirements for those who filed a compliance plan by November 1, 2017. The language also provided the same waiver and extension for buffers required on public drainage systems. All committee omnibus bills were rolled into one Omnibus Supplemental Finance bill this session and this provision was included in early versions of the bill. The language was removed by the conference committee just prior to adopting the conference committee report due to concerns from the Board of Water and Soil Resources and the governor.

*Status: Did not pass*

**Buffer Tax Credit (HF 4395/SF 3960)**

This bill establishes a $50 per acre credit for agricultural land converted to a riparian buffer in accordance with the Minnesota Buffer Law. The bill received two hearings in the House in the Property Taxes Division and full Taxes Committee but was not heard in the Senate.

*Status: Did not pass*

**Excessive Soil Loss Clarification (SF 3141, Article 2, Section 45 & HF 4133/SF 3536)**

Language was amended to the Senate Omnibus Environment and Natural Resources bill this session clarifying that local governments have jurisdiction over soil erosion provisions and makes them inapplicable unless a county or other local government unit affirmatively adopts them via an ordinance. The language was also included in the omnibus supplemental budget bill this session but was removed by the conference committee just prior to adopting the conference committee report due to concerns from the Board of Water and Soil Resources and the governor.

The omnibus agriculture policy bill (HF 4133) also carried the soil loss clarification provision but was vetoed by the governor and did not pass this session.

*Status: Vetoed by the governor on May 21, 2018 (Chapter 190)*
COMPREHENSIVE PLANNING AND ZONING

Aggregate Mapping Appropriation (HF 4009/SF 3584 & SF 3656, Article 19, Section 3)

This bill appropriates $450,000 in FY19 for statewide aggregate mapping and establishes a base appropriation of $950,000 through FY28. The appropriation was included at the amount of $335,000 for FY19 in the Omnibus Supplemental Finance bill as part of the environment and natural resources article which was vetoed.

*Status: Vetoed by the governor on May 23, 2018 (Chapter 201)*

Airport Zoning Requirements (HF 1933/SF 2314 & SF 3656, Article 24, Sections 89-111)

This bill makes various changes to the law governing airport zoning for safety purposes and to avoid incompatible uses. One of the changes requires that municipalities and counties include airport zoning regulations in the comprehensive plan/ordinances, which is permissive under current law. The Minnesota Association of County Planning and Zoning Administrators (MACPZA) had initial concerns with this language but was successful in amending the bill to clarify that the zoning regulations could be adopted by reference. The language was incorporated in the omnibus supplemental budget bill as part of the transportation policy article, which was vetoed and did not become law.

*Status: Vetoed by the governor on May 23, 2018 (Chapter 201)*

Clean Water Coordination (HF 3908/SF 3647 & SF 3656, Article 20, Sections 33-34, 36-37, 47-61, & 103)

This bill provides technical improvements to the Clean Water Legacy Act and local water management programs to achieve coordinated watershed management changes. It is designed to increase the pace of progress, assure accountability, provide flexibility and support local action. This bill also includes language that would allow the NRBG to be considered payments instead of grants, thereby reducing reporting requirements. The language was incorporated in the omnibus supplemental budget bill as part of the environment and natural resources policy article, which the governor vetoed.

*Status: Vetoed by the governor on May 23, 2018 (Chapter 201)*

Modular Homes (HF 3284/SF 2908 & SF 3656, Article 27, Section 3)

This bill allows modular homes to be placed in manufactured home parks and grants modular homes installed in manufactured home parks the same legal rights, obligations, duties, and tax treatment as manufactured homes. MACPZA had some initial concerns with the bill language but was successful in clarifying through an amendment that zoning requirements pursuant to chapters 394 and 462 still apply. The language was incorporated in the Omnibus Supplemental Finance bill as part of the housing article, which was vetoed.

*Status: Vetoed by the governor on May 23, 2018 (Chapter 201)*
Sewage Septic Tank Truck Weight Limits (HF 3339/SF 3298 & SF 3656, Article 24, Section 65)
This bill broadens an exemption from vehicle weight limits imposed by local units of government for roads under their jurisdiction and under spring load restrictions (imposed by MnDOT) to apply to sewage septic tank trucks that exclusively haul sewage from septic or holding tanks. The language was incorporated in the Omnibus Supplemental Finance bill as part of the transportation policy article which was vetoed and did not pass this session.

Status: Vetoed by the governor on May 23, 2018 (Chapter 201)

Wireless Facility Application Fees (HF 3497/SF 3166)
This bill limits the amount a local government unit under Chapters 394 and 462 may charge an applicant to install a new or replacement wireless facility on a publicly owned structure such as a water tower or building. The application fee is limited to the actual cost incurred, not to exceed $3,000 (third party consultant charges are included in this limit). The bill received informational hearings in both the House and Senate this session, but no language passed this year.

Status: Did not pass

Zoning Authorities in the Mississippi Headwaters (HF 3992/SF 3214 & SF 3656, Article 20, Sections 38-44)
This bill clarifies that all zoning authorities are subject to the Mississippi Headwaters Board certification requirement with respect to certain land use actions in the area covered by the board’s comprehensive land use plan. The language was incorporated in the Omnibus Supplemental Finance bill as part of the environment and natural resources policy article which was vetoed and did not pass this session.

Status: Vetoed by the governor on May 23, 2018 (Chapter 201)

CONSERVATION RESERVE ENHANCEMENT PROGRAM

Appropriation Bond Funding (HF 4425, Article 6, Section 4, Subdivision 7)
A provision passed this session as part of the joint capital investment/environment and natural resources trust fund (LCCMR) bill that provides $10,000,000 for the Reinvest in Minnesota (RIM) Reserve Program/Conservation Reserve Enhancement Program (CREP). Instead of general obligation bonds, this bill funds the program through appropriation bonds and designates debt service payments to be paid from the environment and natural resources trust fund over the next 20 years.

Status: Signed into law by the governor on May 30, 2018 (Chapter 214)
DRAINAGE

Drainage Work Group Recommendations (HF 3836/SF 3410 & SF 3656, Article 21)

This bill includes recommendations from the drainage work group in response to a request by the 2017 Legislature to evaluate and make recommendations to accelerate drainage system acquisition and establishment of ditch buffer strips. The goal is to provide additional options to drainage authorities to assist landowners with buffer compliance.

Key provisions for county drainage authorities include: AgBMP loan program modifications to ensure drainage authorities can utilize the program on behalf of the landowners in the system; allows a drainage authority to install buffer strips, with landowner consent, along a drainage ditch prior to acquiring the buffer easement; clarifies that drainage authorities findings regarding the establishment of vegetated ditch buffer strips for water quality and to maintain efficiency is sufficient to confer jurisdiction by the drainage authority; clarifies that a drainage authority may use an outside attorney; and allows for more than 26 percent of the landowners in a public ditch system to petition for a redetermination of benefits and damages, however, the drainage authority will retain their discretion to conduct the redetermination (current law only allows for a petition for redetermination of benefits and damages by over 50 percent of the landowners, while a petition for drainage system improvements require greater than 26 percent).

A separate article that was amended to the bill includes a provision that would allow drainage authorities to use a relative sediment delivery method for repair cost apportionment. This method only applies to drainage system repairs and it is not required that drainage authorities use this approach.

Most, but not all, of these drainage work group recommendations were included in the conference committee report for the omnibus supplemental budget bill, which was vetoed and did not pass. The AgBMP language was also included in the Omnibus Agriculture Policy bill (HF 4133, which was also vetoed).

Status: Vetoed by the governor on May 23, 2018 (Chapter 201)

FORESTRY

Forest Inventory Recommendations (SF 3656, Article 20, Section 99)

This provision included in the environment and natural resources policy article of the Omnibus Supplemental Finance bill provides for the Minnesota Forest Resources Council to work with the Interagency Information Cooperative and the University of Minnesota Department of Forest Resources to make recommendations for improving stand-level forest inventories. The recommendations must address forest inventories of state and county-administered forest lands and shall be reported to the environment committees in the House and Senate by February 1, 2019.

Status: Vetoed by the governor on May 23, 2018 (Chapter 201)
INVASIVE SPECIES

Aquatic Invasive Species Grants to Lake Associations (HF 3798/SF 3531 and SF 3656, Article 19, Section 3)

This bill appropriates $400,000 in FY19 for grants to lake associations to manage aquatic invasive species in partnership with local units of government. The appropriation was included at the amount of $425,000 in the Omnibus Supplemental Finance bill as part of the environment and natural resources article, which was ultimately vetoed did not pass this session.

Status: Vetoed by the governor on May 23, 2018 (Chapter 201)

Minnesota Invasive Terrestrial Plants and Pests Center (HF 4425, Article 4, Section 2, Subd. 6)

A provision passed this session as part of the joint capital investment/environment and natural resources trust fund (LCCMR) bill that provides $3,500,000 in FY19 from the environment and natural resources trust fund to the Invasive Terrestrial Plants and Pests Center at the University of Minnesota for high priority research to protect Minnesota’s natural and agricultural resources from terrestrial invasive plants, pathogens, and pests.

Status: Signed into law by the governor on May 30, 2018 (Chapter 214)

PARKS AND TRAILS

Grants for Local Parks, Trails, and Natural Areas (HF 4425, Article 4, Section 2, Subdivision 9)

A provision passed this session as part of the joint capital investment/environment and natural resources trust fund (LCCMR) bill that provides $2,000,000 in FY19 from the environment and natural resources trust fund to the Department of Natural Resources (DNR) to solicit, rank, and fund competitive matching grants for local parks, trail connections, and natural and scenic areas.

Status: Signed into law by the governor on May 30, 2018 (Chapter 214)

SOIL AND WATER CONSERVATION DISTRICTS

Levy and Fee Authority (HF 4336/SF 3843)

This bill adds Soil and Water Conservation Districts (SWCDs) to the list of special taxing districts and authorizes them to set their own levy, capped at the lesser of 0.048% of taxable market value or $1,000,000. The bill also authorizes SWCDs to collect charges for district operations and programs in a manner the district determines, including certification to the counties for collection by the county.

The bill received a hearing in the Senate Taxes Committee at which time AMC and the Minnesota Inter-County Association testified in opposition. The bill was laid over for possible inclusion in the omnibus tax bill and it was not included in either House or Senate Omnibus Tax bills.

Status: Did not pass
Ramsey County SWCD Discontinued (HF 3819/SF 3411)

This bill authorizes the dissolution of the Ramsey County Soil and Water Conservation District and transfers its duties and obligations to the Ramsey County Board of Commissioners. The language was included in the Omnibus Supplemental Finance bill (SF 3656) which was vetoed, but also passed as a stand-alone bill and was signed into law by the governor.

Status: Signed into law by the governor on May 19, 2018 (Chapter 169)

SOLID WASTE MANAGEMENT

Auxiliary Containers Regulation Ban (HF 3606/SF 3135)

This bill prohibits counties, cities and townships from regulating auxiliary containers. The Solid Waste Administrators Association (SWAA) was concerned with the bill due to the local government preemption precedent it sets as well as removing a tool from counties to manage solid waste as they are statutorily required to do. The bill received hearings in both the House and Senate after policy committee deadline and did not pass this session.

Status: Did not pass

Capital Assistance Program (HF 3078/SF 2632 & SF 3656, Article 20, Section 65)

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

AMC and SWAA worked with the bill authors to make the language less burdensome for counties. The language was included in the Omnibus Supplemental Finance bill in the environment and natural resources article, but was vetoed and did not pass this session.

Status: Vetoed by the governor on May 23, 2018 (Chapter 201)

Demolition Debris Landfills (HF 4070/SF 3752 & HF 3502, Article 2, Section 108)

This AMC and SWAA supported bill requires the Minnesota Pollution Control Agency (MPCA) to consider additional factors, such as social and economic factors, when permitting Class I demolition debris landfills. The language also states that MPCA shall not impose any permit conditions that are not contained in rules or the Demolition Landfill Guidance, including requirements for enhanced cover and hydrogeologic sampling, analysis, and reporting. The bill also requires the agency to evaluate groundwater quality near demolition landfills that are collected from a monitoring program, and when considering whether any discovered groundwater contamination may have originated from non-landfill activities or is naturally occurring.

The bill received a hearing in the House Environment and Natural Resources Policy and Finance Committee and was included in the committee omnibus bill, and was included in early versions of the Omnibus Supplemental Finance bill (SF 3656) but was ultimately removed by the conference committee due to concerns from the MPCA and governor.

Status: Did not pass
Excise Tax on Food or Containers Prohibition (HF 3814/SF 3253 & HF 4385, Article 3, Section 10)

This bill prohibits a county, city or township (or any taxing authority) from increasing or imposing an excise tax on food or containers. The bill received hearings in both the House and Senate Taxes Committees and language was included in the first Omnibus Tax bill (HF 4385), which was vetoed.

*Status: Vetoed by the governor on May 17, 2018 (Chapter 172)*

Metro Recycling Grant Program (HF 3153/SF 2921)

This bill amends a MPCA grant program that provides financial assistance to counties in the seven-county metropolitan area for planning, developing and operating recycling and yard waste composting programs. The statute currently requires a 50 percent match of state funds by counties. This bill broadens the entities that may match a state award to include a local unit of government, tribal government, or private or nonprofit organization.

*Status: Signed by the governor on May 14, 2018 (Chapter 134)*

Metro Solid Waste Management Plan (SF 3656, Article 20, Section 89)

Language was amended to the Senate Omnibus Environment and Natural Resources bill on the floor relating to the metropolitan solid waste management plan that states “any goal, policy, criteria, or standard contained in the policy plan may not be required of or enforced against a county or private party and does not have the force and effect of law unless required by statute or adopted in accordance with chapter 14.”

Counties had concerns with an earlier version of the amendment, but SWAA and the Partnership on Waste and Energy (Hennepin, Ramsey and Washington Counties) were able to successfully work with the amendment author to provide input on the language and reach a neutral position. The language was included in early versions of the Omnibus Supplemental Finance bill, but was removed by the conference committee due to concerns by the governor and MPCA.

*Status: Did not pass*

Organized Collection (HF 3095/SF 2697)

This bill amends the process by which a city or town may adopt an organized, publicly operated, solid waste collection system. SWAA and the League of Minnesota Cities had concerns with initial language in the bill, but it was amended with agreeable language to alleviate those concerns. The language was included in the environment and natural resources policy article of the Omnibus Supplemental Finance bill, which was vetoed, but the language did pass this session as a stand-alone bill.

*Status: Signed by the governor on May 20 (Chapter 177)*

Solid Waste Management Tax Rebate (HF 2282/SF 1940)

This bill establishes a refund from the solid waste management tax based on the amount of materials separated from waste from commercial and residential generators. The bill received hearings in both the House and Senate Taxes Committees and was laid over for possible inclusion in the omnibus bills. It was not included in either House or Senate Omnibus Tax bills this session.

*Status: Did not pass*
Solid Waste Ordinances and Adjutant General Authorities *(HF 3278/SF 3003)*

This bill clarifies the Adjutant General is responsible for operating the military reservations of the state and exempts the department from local government (including county) regulations. The Office of the Adjutant General was seeking clarification on this issue due to a lawsuit relating to Camp Ripley over whether the military base was required to follow local solid waste ordinances. AMC applied significant effort toward this bill and was able to prevent it from passing this session.

*Status: Did not pass*

**WATER**

3M Settlement *(HF 3660/SF 3202)*

As part of the settlement regarding PFCs and natural resource damages in the east metropolitan area, the 3M Company agreed to make an $850 million grant payment to the state. The settlement stipulated that the money must be used to “enhance the quality, quantity and sustainability of the drinking water in the East Metropolitan Area.”

This bill establishes a dedicated account for the money from the 3M settlement and statutorily appropriates the funding to the MPCA and DNR with reporting requirements. The bill also requires MPCA and DNR to work with stakeholders to identify and recommend projects to be funded. The stakeholders include representatives of the MPCA, DNR, east metropolitan area municipalities and 3M.

The language was included in the Omnibus Supplemental Finance bill, which was vetoed, but also passed as a stand-alone bill.

*Status: Signed into law by the governor on 5/29/18 (Chapter 204)*

Clean Water Fund Appropriations *(HF 4269/SF 4066) and (HF 4355/SF 3959)*

These bills, as introduced, are similar and provide $25.765 in appropriations from the clean water fund for fiscal year 2019. The House held hearings on HF 4269 and included clean water fund appropriations in an omnibus legacy bill, but the Senate did not pass any clean water appropriations this session.

*Status: Did not pass*

Lake Levels of White Bear Lake *(HF 4003/SF3583)*

This bill pertains to a recent court order regarding the lake levels of White Bear Lake that required the DNR to review and amend groundwater appropriation permits within a five-mile radius of White Bear Lake to address lake levels. The order requires the DNR permit to enact residential irrigation bans when the lake level falls below a certain threshold, create plans to phase down per capita water use, and submit a contingency plan for the use of surface water.

This bill temporarily prohibits the DNR from using funds to enforce these conditions in groundwater appropriation permits, despite permit requirements established by the court order. The language also temporarily allows a permit holder in a groundwater management area within the seven-county metropolitan area to use alternative measures of water use and alternatives to residential irrigation bans and removes a requirement that they have a contingency plan to use surface water.

The language was included in the Omnibus Supplemental Finance bill which was vetoed, but also passed as a stand-alone bill.

*Status: Signed into law by the governor on May 21, 2018 (Chapter 181)*
Storm and Sanitary Sewer (HF 3210 / SF 3055)

This bill provides counties in the seven-county metropolitan area the same authorities granted to municipalities and counties outside the metropolitan area to construct, maintain, and repair waterworks, sanitary sewer and storm sewer systems, including the ability to use the same financing options such as sanitary sewer and storm sewer charges to cover costs.

The language was included in the Omnibus Supplemental Finance bill, which was vetoed, but also passed as a stand-alone bill.

*Status: Signed into law by the governor on May 8, 2018 (Chapter 114)*

WETLANDS

Wetland Banking Credits – Local Road Wetland Replacement Program (HF 4425, Article 1, Section 7, Subdivision 3)

A provision passed this session as part of the joint capital investment/environment and natural resources trust fund (LCCMR) bill that requires, to the extent practicable and consistent with the project, recipients of the flood hazard mitigation appropriation ($20,000,000) to create wetlands that are eligible for wetland replacement credit to replace wetlands drained or filled as the result of local government projects for existing roads. The intent of this legislation is to utilize alternative methods for generating more wetland banking credits for the local road wetland replacement program.

*Status: Signed into law by the governor on May 30, 2018 (Chapter 214)*

Wetland Replacement (SF 3656, Article 20, Section 93)

Language was added to the House Omnibus Environment and Natural Resources bill and the Omnibus Supplemental Finance bill to allow BWSR to complete planning frameworks and other application requirements for an in-lieu fee program for wetland replacement. This program was authorized through legislation in 2015. The Omnibus Supplemental Finance bill was vetoed and this provision did not pass.

*Status: Vetoed by the governor on May 23, 2018 (Chapter 201)*
General Government & Taxes

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

After a successful 2017 budget year, where the Legislature appropriated close to $50 million in additional aids, counties went into 2018 looking at preserving their gains and push across the finish line a much-needed solution on pension reform. As recently as November 2017, staff worried that a Minnesota Management and Budget (MMB) November forecast indicating a $188 million deficit ($302 million with the Legislature’s appropriation restored) would not only spell doom to a pension solution but also pose a threat to recent successes on CPA, PILT, and ICWA aids. The surprise passage of a federal tax bill further compounded concern regarding how the Legislature may act to address the federal government’s elimination of several itemized deductions and whether a solution to conformity would be revenue neutral or add to the deficit.

By February, the picture had changed once again as the projected deficit of $188 million had turned into a projected surplus of $329 million as a result of increased economic indicators, lower spending projections, and a federal reimbursement for the Children’s Health Insurance Program (CHIP) which had been delayed due to federal inaction. While the surplus was well-received, the limited amount of budget surplus combined with legislative goals to address MNLARS inadequacies, senior care, opioid treatment, mental health, and tax conformity was more than enough to spend the surplus multiple times over.

While General Government did not have any of AMC’s top 6 priorities this year, the policy committee did place a heavy priority on preserving recent gains in County Program Aid (CPA) and Payment and Lieu of Taxes (PILT), along with passing an omnibus pensions bill that would decrease costly early retirement incentives and put PERA General, Police and Fire, and Correctional plans on a better sustainability path. On these measures alone, counties were successful.

In addition, AMC staff worked with bipartisan authors to push a plethora of no (or limited) spending measures that would ease counties operations or address looming issues, such as a utility assessment study, IT field testing requirements, casino aid payment increases, and reimbursement for legal expenses incurred by the State Auditor’s lawsuit against three Minnesota counties. In the end, however, these issues were either not included in omnibus bills or fell prey to gubernatorial vetoes.

TAXES

Omnibus Tax Bill/Federal Tax Conformity

The successful passage of the December 2017 federal Tax Cut and Jobs Act (TCJA)—and the repeal of many itemized deductions—represented both a major increase in general revenue funds and conversely, the potential for increased tax burdens for Minnesota filers if the Legislature failed to act. With this threat looming over the 2018 session, a response to tax conformity became a priority of the Legislature as well as the administration. Senate and House tax committees spent months of hearings to review impacts and ultimately agreed to a tax proposal that would move Minnesota from Federal Taxable Income (FTI) to Federal Adjusted Gross Income (FAGI) along with preserving certain itemized deductions such as state and local taxes and lower first and second tier income tax rates, among several other provisions. In the end, however, the governor vetoed the bill due to concerns about its size and worries about long term budget sustainability.

Time will tell if Governor Dayton will call a special session prior to 2019 session to prevent filers from an arduous—and potentially costly—2019 filing season. For a breakdown of the positions of the House, Senate and governor, along with the final tax proposal vetoed by the governor on May 23, 2018, please see chart on the next page.

Status: Vetoed by the governor on May 23, 2018 (Chapter 205)
Casino Aid Formula Revision (HF 2406/SF 2124)

AMC worked with Cass County and others on a continuation of county efforts to increase the percentage of state tribal casino aid derived from casino sales tax. Current allocations are disbursed 50% tribe, 40% state, 10% county. HF 2406/SF 2124 would have kept the tribal share at 50%, but changed the state’s portion from 40% to 30% while increasing the county share from 10% to 20%. The bill did carry a fiscal note of $1.3 million.

**Status: Did not pass**

Utility Refund Repayment (HF 2971/SF 2476)

AMC worked with members to forward a proposal that would require the state to pay back all costs associated with state-assessed property tax refund orders. Staff worked alongside Clearwater Auditor Al Paulsen to share with members the sense of fear and nervousness counties have on an Enbridge tax court case that includes multiple years of property tax assessments and 13 counties along with municipalities and school districts. If the Supreme Court upholds the May 2018 Tax Court decision, counties would be on the hook for tens of millions of dollars, a situation that would deplete county reserves and significantly impact county budget and levies. AMC staff also testified in support of this bill and any efforts to better research assessment methodology that promotes long term consistency. This measure dovetails AMC efforts in the omnibus bill to require Department of Revenue to issue a report looking at how other states do assessments of utility companies and task Commissioner with suggesting changes to increase the dependability of assessments in the future.

**Status: Did not pass**
PENSIONS

Omnibus Pension Sustainability (SF 2620/HF 3053)

Of all general government issues this session, the major silver lining at the end of session, the Omnibus Pensions bill passed both chambers on a unanimous vote and is expected to be signed by Governor Dayton. SF 2620/HF 3053 was supported by AMC, local government organizations and employee representative groups. It makes several structural changes to PERA General, Correctional, and Police and Fire plans which will increase the overall financial sustainability; taking away early retirement incentive components employers have traditionally been opposed to—including a COLA payment on early retirement - and adding language to make plans “fully actuarial equivalent.” After two years of failed/vetoed bills, AMC is grateful for the hard work of legislators, PERA staff, and employee representatives to move this significant pension package across the finish line.

PERA changes in summary:

- Changing assumed rate of return from 8% to a more reasonable/realistic 7.5%;
- Getting rid or phasing out early retirement COLAs and augmentation of benefits;
- Changing post retirement COLAs:
  - PERA General Plan: Getting rid of 2.5% COLA trigger and replacing it with a COLA that is 50% of the COLA provided by social security, with a floor of 1% and ceiling of 1.5%.
  - PERA Correctional Plan: Getting rid of 2% COLA and replacing it with a COLA that is equal to COLA announced by social security, not less than 1% and no more than 2.5%. When the plan’s funded ration is less than 85% for two year or less than 80% for one year, the 2.5% maximum is reduced to 1.5% and remains at 1.5% thereafter.
  - PERA Police and Fire: No changes;
- State aid for the PERA Police and Fire plan of $4.5m for 2018 and 2019, and $9m thereafter;
- Employee contribution increases of 1% of salary for Police and Fire members and 1.5% for employers (phased in);
- Reset of amortization from 2033 to 2045.

All told, these changes will decrease Minnesota pension liabilities by $6 billion, improving plan solvency well into the future.

Status: Signed into law by the governor on May 31, 2018 (Chapter 211)

COUNTY GOVERNANCE

Uniform Municipal Contracting Law (HF 3841/SF 3399)

AMC worked with MICA and LMC to support HF 3841/SF 3399, a bill to increase the direct bidding and publication thresholds under the uniform municipal contracting law gained the governor’s signature after near unanimous votes in both the Senate and House. 2018 Session Law Chapter 107 expands the current threshold to follow sealed bidding processes from $100,000 to $175,000. The last time these ranges were increased was 2008.

Status: Signed into law by the governor on April 26, 2018 (Chapter 107)
Competitive Bidding Changes for Small Businesses or Veteran-owned Small Businesses (SF 3793/HF 3608)

Hennepin county forwarded a bill this session that would allow their county to directly solicit business contracts—as defined in subd. 2 of the Uniform Municipal Contracting law—provided that the contract is under $250,000 and the business is certified by the county (through a certification program) as a small business or veteran-owned/operated. After committee discussion, an amendment was successfully added to make these changes applicable to all counties.

Status: Signed into law by the governor on May 17, 2018 (Chapter 146)

Local Government IT Field Testing Requirement

An AMC member-led initiative to require state agencies to field test new technologies/software before implementation/deployment was successfully incorporated into the Omnibus Supplemental Finance bill but ultimately vetoed by the governor. After working with MN.IT staff, AMC members were successful in moving a policy committee idea to require state agencies to provide opportunities for counties to test new technology/software that significantly impact operations of local units of government.

Status: Vetoed by the governor on May 23, 2018 (Chapter 201)

Certified Private Accounting Firm “Bill of Rights”

In 2017, State Auditor Rebecca Otto released “findings” of inadequacies of several private county audits. These findings listed several northern counties, claiming that the annual audits done by private CPA firms were inadequate and below industry standards. As a result, the State Auditor was allowed to re-audit the counties’ financial books for a second audit at the cost of taxpayers. In response to timing, lack of communication, and questions regarding the merits of the alleged inadequacies, the Legislative Auditor released a report in the beginning of 2018 session that concluded the OSA did not adequately document how it reached its audit conclusions and that the county audits conducted by private firms met generally accepted auditing standards. To make sure that this unfortunate experience would not happen in future years, legislators worked in a bipartisan fashion to create a CPA “bill of rights” that would require the State Auditor to communicate with the firm in question and allow the CPA firm an opportunity to respond to findings/conclusions.

Status: Vetoed by the governor on May 23, 2018 (Chapter 201)

State Auditor Lawsuit Reimbursement

In 2015, AMC worked with a bipartisan group of legislators to pass a law allowing counties to use private certified accounting firms to conduct their annual audits—a right other cities, school districts and townships have had for years. Immediately following successful passage and signature by Governor Mark Dayton, State Auditor Rebecca Otto sued three counties (and originally the state) to deem the law unconstitutional—arguing that the law change “gutted her office” and broke the single-subject rule, which requires bills to adhere to a single subject. Counties celebrated success after a spring 2018 Minnesota Supreme Court decision upheld an earlier Ramsey District Court decision ruling the law change as constitutional. As a result of these cases, however, the three counties named in the lawsuit (Ramsey, Becker, Wright) had to spend additional staff and resources for outside counsel. Late in the session, the House State Government Finance committee amended their omnibus bill to include $140,000 in reimbursement divided equally between Becker and Wright counties for costs incurred by outside legal counsel. This provision was included in the vetoed Omnibus Supplemental Finance bill.

Status: Vetoed by the governor on May 23, 2018 (Chapter 201)
Adjutant General Uniform Preemption (HF 3278/SF 3003)

Major credit to Morrison county for sounding the alarms about an inconspicuous yet concerning proposal that would have granted the adjutant general—leader of the Minnesota National Guard—authority to supersede any “local ordinance or rule...”, not including state requirements. HF 3278, simply stated as a “bill related to the military; clarifying the authority of the adjutant general,” is believed to have stemmed out of a disagreement with a single county over a solid waste ordinance. The preemption proposal outlined in HF 3278 is broad enough, however, that it would have included far more issues than solid waste and would encompass all properties under the adjutant general, military bases as well as armories. AMC worked with the bill authors and with the governor's staff, and successfully relayed local government concerns. The bill was ultimately not placed on House or Senate calendars.

Status: Did not pass

WORKERS COMPENSATION

Worker's Compensation—Post Traumatic Stress Disorder and Hospital Rates (HF 3873/SF 3420)

An Omnibus Worker's Compensation bill including changes to post traumatic stress disorder (PTSD) coverage for first responders and changes in hospital outpatient fees/benefits moved through the Legislature on a non-traditional path with limited local government input. Governor Dayton signed the Omnibus Worker's Compensation bill modifying hospital outpatient fee schedules and adopting Worker's Compensation Advisory Council (WCAC)-approved changes regarding PTSD. The latter provision was in response to the Legislature's impassioned request for movement on a PTSD presumption. In the last few weeks of session, employee and employer groups met in marathon force to put together outlines of a possible compromise. AMC joined with MICA and LMC to work with the bill author on identifying applicable employee classes, outlining the creation of treatment parameters, delaying implementation until 2019, and to make sure that the presumption would still be rebuttable. These requests were respected and included in the Workers Compensation Advisory Council's draft proposal and adopted into the final bill signed by the governor. It is still unclear whether the development of treatment parameters alongside a presumption will result in increased claims/costs.

Status: Signed into law by the governor on May 20, 2018 (Chapter 185)

ELECTIONS

Election Cybersecurity Funds

A surprise passage of federal cybersecurity legislation included $380 million in grants to states to increase and address cybersecurity for elections—including nearly $6.6 million to the state of Minnesota. In order to access these funds, however, the state was required to make a matching allocation of $1.5 million. While the issue was supported on all sides of the aisle, the matching funds provision was only included in the Omnibus Supplemental Finance bill that was vetoed by the governor. Late efforts to rescue this provision and send it individually for signature were not successful.

Status: Vetoed by the governor on May 23, 2018 (Chapter 201)
Omnibus Elections (HF 3221/SF 3021)

A year after a successful, bipartisan omnibus election bill that included changes to in-person absentee voting and an a $7 million injection of funds for election equipment grants, the House and Senate failed to move forward an omnibus elections bill this session.

Status: Did not pass

County Row Officer Appointment (HF 3509)

An AMC-MACO statewide effort to allow counties to appoint the positions of recorder, treasurer, and auditor stalled for the second year in a row after the proposal was refused a hearing. This result is despite a 2015/2016 session, where AMC moved the bill through various House and Senate committees including the successful incorporation of the proposal into a House Omnibus Elections bill. AMC will be continuing to educate members on the critical importance of allowing elected county boards to restructure county government to be effective and efficient for their constituents and 21st century governance.

In addition to the statewide proposal, three counties (Wadena, Morrison, and Renville) had individual bills to appoint one or more of their offices. While the House heard these provisions and moved them all the way to the House General Register, the Senate State Government Finance Chair refused the bills a hearing, ending their chances for a signature. In a short, informal survey taken before session, more than 10 counties cited immediate or possible interest in eventually moving to a system of appointed auditor/treasurer/recorder positions.

Status: Did not pass

HUMAN RESOURCES

Sexual Harassment Definition Change Proposal (HF 4459/SF 4031)

After multiple legislator resignations over sexual harassment, legislative leaders worked in a bipartisan fashion to make changes to House/Senate rules and propose new changes to sexual harassment statutes in an effort to stymie inappropriate behavior. One of these initiatives, HF 4459, authored by House Majority Leader Joyce Peppin, would have expanded MS 363A.03 to clarify that “An intimidating, hostile, or offensive environment under paragraph (a), clause (3) does not require the harassing conduct or communication to be severe or pervasive.” This short, but impactful, language would counter a standard set by the US Supreme Court that requires an act of sexual harassment to be severe and pervasive—a bar that legislative authors stated was too high. During a late session hearing, advocates for the provision laid out several instances where obvious sexual harassment was thrown out by the courts for not meeting the federal standard and argued that contrary to opponent’s views, the new language would not open the flood gates of litigation, but rather allow judges more latitude with a standard that is too high. Conversely, employers testified with concerns that the broadened language does not have enough guidelines, potentially increasing litigation costs while the courts decide a new standard. While the House passed the proposal by a near unanimous vote, the Senate Judiciary Committee did not hear the bill.

Status: Did not pass
AMC priorities in health and human services (HHS) were focused on bonding dollars for mental health, field testing for the periodic data match, and resources to combat opioid abuse.

Much of the time and attention of lawmakers was aimed at several key HHS issues. This included strengthening protections to respond and prevent abuse of elderly and vulnerable adults, activities aimed at reducing opioid abuse, and addressing an impeding cut to certain providers in disability services.

Numerous HHS provisions were incorporated into the Legislature’s supplemental budget bill, which was vetoed by the governor. The governor had asked for separate bills on the most urgent priorities and argued that the Legislature did not go far enough to protect the elderly or combat opioid abuse.

AMC LEGISLATIVE PRIORITIES

Mental Health Regional Crisis Centers and Supportive Housing

The Capital Investment bill included investments in infrastructure dedicated to behavioral health services throughout the state. The bonding bill included $28.1 million dollars in general obligation funds for behavioral health crisis stabilization centers. An additional $1.9 million was designated for specifically for Scott County to construct an intensive residential treatment services facility and residential crisis stabilization center. The projects would be funded through grants distributed by the Department of Human Services (DHS). Criteria for projects include a demonstrated need for the program in the region, a detailed service plan, estimated cost for operating the program and a plan for financial sustainability.

In addition, $30 million was appropriated for supportive housing for individuals with behavioral health needs. Housing is considered a significant barrier for individuals seeking behavioral health services. Supportive housing is designed to provide services, including mental health services, to those at risk of homelessness.

All 87 Minnesota counties passed resolutions in favor of this bonding initiative.

*Status: Signed by the governor on May 30, 2018 (Chapter 214)*

Minnesota Eligibility Technology System (METS) Field Test

As counties prepared for the rollout of the periodic data match (PDM) at the beginning of the session, the media and lawmakers focused their attention on highlighting some of the major failings of the statewide MNLARS vehicle licensing system. At the same time, AMC outlined the major concerns about rolling out the PDM as a statewide effort without testing the system within counties. The House and Senate agreed on a requirement for local testing of any new state software applications where the local governments are the primary users. The provision was included in the Omnibus Supplemental Finance bill, which was vetoed by the governor. In March, DHS and MN.IT announced a delay in the implementation of PDM, due to a software error. In a letter to lawmakers, the agencies also agreed to work with counties to explore opportunities for potential field testing. AMC and the Minnesota Association of County Social Service Administrators (MACSSA) reconvened a workgroup to examine potential testing opportunities and make recommendations. County leaders have been working with the Department of Human Services and Minnesota IT Services on a proposal to test and evaluate the implementation of PDM, which is scheduled for July 2018.

*Status: Vetoed by the governor on May 23, 2018 (Chapter 201)*
Opioids (HF 1440/SF 730)

The original bills were intended to raise funds by charging pharmaceutical manufacturers for opioid abuse treatment programs and community prevention projects. The so-called penny a pill tax which was also supported by the governor, was described by lawmakers as a way to hold the drug makers financially responsible for helping to curb the opioid abuse epidemic. However, lawmakers could not agree on a funding source. The Senate version that passed assessed a fee to pharmaceutical manufacturers, but the House version used general funding.

Some of the opioid-related policy changes and funding related to opioids were also included in the Omnibus Supplemental Finance bill and a second bill (SF 799) that amended the omnibus. Those changes included funding for a pilot project for community paramedics to reduce overdoses, grants for opioid education. The legislation also created an opioid stewardship council, and included prescribing limits for prescribers as well as additional requirements related to accessing the prescription monitoring database and educational requirements for prescribers.

Status: Chapter 201 and Chapter 212, both vetoed by the governor on May 23, 2018

CHILD PROTECTION

Removal of Child Protection Withholds (HF 4031/SF 3173)

Counties currently receive only 80 percent of the funds allocated for child protection staffing if certain performance measure are not met. The twenty percent withheld is distributed to counties meeting performance measures. The legislation would have eliminated the withhold. The bill only received a hearing in the Senate and was included in the Senate version of the HHS omnibus. However, the House HHS omnibus redirected the money withheld from counties toward the creation of a child welfare training academy.

Eliminating this withhold was a priority for the Minnesota Association of County Social Service Administrators.

Status: Did not pass

Child Well-Being Model  (HF 3454/SF 3228)

The bill would have allowed for a pilot project to align background study provisions across certain child protection programs. The bill also established a pilot project based on the child protection safety and risk-based framework, or child well-being model.

Status: Did not pass
MEDICAL ASSISTANCE ELIGIBILITY

Work Requirements (HF 3722/ SF 3611)

A bill that would have required employment or job training in order to be eligible for medical assistance was heard by committees in both the House and Senate. The legislation would have created an additional workload at the county level and additional responsibilities including processing and monitoring exemptions, updating benefits based on work requirements, monitoring compliance, and managing appeals.

Late in the session, the state’s Management and Budget office released a local impact note, based on county input. The agency estimated the proposal would cost counties $121 million in calendar year 2020 and $163 million in calendar year 2021.

Status: Did not pass

County-based Eligibility System (HF 2725)

The bill would have required would have repealed MNsure and replaced the Minnesota Eligibility Technology System (METS) with a new county-based eligibility determination system. Counties would have been responsible for administering both MA and MinnesotaCare. The bill was heard in multiple House committees, but was not debated on the floor.

Status: Did not pass

OTHER HHS BILLS THAT PASSED

IRTS/Crisis Stabilization Services (HF 2945/SF 2545)

This bill removes the requirement for a county contract for providers developing Intensive Residential Treatment Services or Crisis Stabilization Services. Providers instead must seek a statement of need from a county board, and provide documentation on the community need for the services.

Status: Signed by the governor on May 19, 2018 (Chapter 151)

SMART Center (HF 4425/SF 4021)

The Capital Investments bill included $6.2 million appropriated for the Safety and Mental Health Alternative Response Training (SMART) Center in Dakota County. The SMART Center would provide regional training for police officers, including on crisis intervention.

Status: Signed by the governor on May 30, 2018 (Chapter 214)

Commitment Criteria (HF 3782/SF 3673)

This bill changes the criteria to be directly discharged from the Minnesota Security Hospital when an individual has been committed as “mentally ill and dangerous.” Criteria for individuals would mean they would no longer need any treatment and supervision instead of needing inpatient treatment.

Status: Signed by the governor on May 19, 2018 (Chapter 194)
Training on Human Trafficking for Lodging Facilities (HF 3287/SF 3367)

This bill requires owners, managers, and employees of hotels and motels in Minnesota are trained on recognizing suspected cases of sex trafficking. In addition to annual training, the operators must conduct an ongoing awareness campaign for employees that highlight the signs of trafficking and instructions on reporting suspected cases.

Status: Signed by the governor on May 20, 2018 (Chapter 179)

Extension for All-Payer Claims Data (HF 3398/SF 2675)

This bill extends the date that the Department of Health is authorized to access the data from the all-payer claims database. The department analyzes the data related to health care costs, quality, and utilization. The legislation also prohibits the state from requiring a self-insurer governed by ERISA to have to submit data to the database.

Status: Signed by the governor on May 20, 2018 (Chapter 180)

Exception to Hospital Moratorium (HF 3202/SF 2892)

This bill makes an exception to the moratorium on hospital beds for Ramsey County. The legislation allows for a proposed project of 55 beds to be added at Regions Hospital, including 15 beds for inpatient mental health and 5 unlicensed observation mental health beds.

Status: Signed by the governor on May 20, 2018 (Chapter 199)

OMNIBUS

HHS policy and funding provisions included in the Omnibus Supplemental Finance bill vetoed by the governor:

- **MnCHOICES:** The bill directed the Department of Human Services to work with counties to develop benchmarks and collect data in order to identify potential efficiencies and more cost effective approaches to the assessment process. The approach was a step toward improving efficiencies with the assessment process. The proposal was part of a priority of Minnesota Association of County Social Service Administrators aimed at improving efficiencies.

- **Children's Residential Treatment Centers:** The reclassification of the residential centers as “Institutes of Mental Disease,” means the end of Medicaid reimbursement for these facilities as of May 2018. In 2017 some funding was appropriated to provide bridge funding. The Omnibus Supplemental Finance bill included an extension of that bridge funding Counties will be responsible for 100 percent of costs starting May 2019.

- **Disability Waiver Rate System (DWRS):** The bill included a fix to the pending rate cut to certain providers of disability services. The federal Centers for Medicare and Medicaid Services disagreed with the state’s rate setting policy, which included 7 percent rate increases approved previously by the Legislature. This results in the loss of a federal match and a rate cut to the reimbursement rates for providers, starting July 1. The upcoming rate cuts will require counties to modify service agreements to reflect changed rates.
• **Hospitalization Criteria:** The bill allowed for counties to appeal the 100 percent cost share that counties pay when an individual no longer meets medical criteria at Anoka Metro Regional Treatment Center and Community Behavioral Health Hospitals.

• **Elder Care and Vulnerable Adult Protections:** Following the state auditor’s report and a Governor’s Task Force recommending changes to the state’s elder care system, lawmakers added language that would have created workgroups to make recommendations, improved reporting practices, allowed for electronic monitoring in resident rooms, and strengthened protections against retaliation and deceptive marketing practices.

• **Nonemergency Medical Transportation:** The bill directed the Department of Human Services to contract with a vendor to provide additional oversight and prohibited any provider who has been terminated from being enrolled as a provider within five years.

• **Data Sharing:** The bill would have allowed some information sharing between the sheriff and social services to be used for discharge planning from jail.

• **Tobacco Cessation Funding:** The bill funded statewide tobacco cessation services. The funding was redirected from the Statewide Health Improvement Program (SHIP) funds. SHIP funds are aimed at chronic disease prevention.

• **Telemedicine:** The bill allowed for expanding the limits medical assistance benefits to pay for telemedicine services related to tuberculosis treatment. This change was a priority of the Local Public Health Association.

• **Eligibility Verification:** The bill directed the Department of Human Services to contract with a vendor to verify eligibility for enrollees in public programs including medical assistance, Supplemental Nutrition Assistance Program, and Child Care Assistance.

*Status: Did not pass*
Activity in public safety started off quickly, though most of the attention was on the transportation committees since that's where Department of Public Safety (DPS) funding for MNLARS originates. MNLARS was far and away the most high-profile issue in this subject area for the 2018 session. There were other policies passed and signed (or in some cases vetoed) and a handful that didn't quite make it to the finish line. Few, if any, of those would be considered marquee issues, but nevertheless details are included below.

**MNLARS**

**MNLARS Fixes – Phase One (SF 3133/HF 3724)**

Just prior to the start of the legislative session, DPS, MN.IT and the governor released their plan, and cost estimates, for fixing the MNLARS system. The plan would require an additional $43 million in funds for system work. Of that, $10 million was required in the first few weeks of the legislative session in order to avoid layoffs of contractors and other staff that were only funded through the end of March. While it took a couple more weeks than the administration hoped, the Legislature did send the governor a bill that authorized most of the request for funds, using fund balance from a special revenue account within Driver and Vehicle Services (DVS) at DPS. The request did include additional staff for the MNLARS helpline and that is the portion that the Legislature chose not to fund in the bill, the full request for IT staff was included. The bill also created a legislative oversight committee for the MNLARS project. This was a compromise position between the current status of no legislative oversight and the House proposal of several specific benchmarks and significant progress reporting as a condition of receiving this additional funding.

*Status: Signed in to law by the governor on March 22, 2018 (Chapter 101)*

**Omnibus Supplemental Finance Bill**

The continuation of the discussion on fixing the system stretched throughout the session with the House and Senate taking different approaches to the funding problem. In the end, the omnibus bill allocated roughly $15 million (less than half the remaining $33 million that the administration requested). The bill also included $5 million in reimbursement funds for deputy registrars.

*Status: Vetoed by the governor on May 23, 2018 (Chapter 201)*

**Reimbursements to Deputy Registrars (HF 2835/SF 3836)**

Apart from the funding in the Omnibus Supplemental Finance bill, the Legislature sent the governor a bill that would have provided $9 million is reimbursements to deputy registrars. The funds were transferred from a special revenue account with DVS, not the general fund. The governor vetoed the bill citing concerns about the source of the funding and also objecting to not looking at reimbursement and MNLARS system fixes together. An attempt to override the veto was unsuccessful.

*Status: Vetoed by the governor on May 19, 2018 (Chapter 178)*
OFFENDER SUPERVISION

Sex Offender Supervision Changes (HF 2944)
Legislation was introduced that created a new intensive supervised probation program and required 25-year probation and conditional release terms for these offenders. County stakeholders expressed concerns about this language due to cost, caseload, and policy considerations. As the House moved the bill forward in their omnibus bill, funding for the fiscal note on the intensive probation was included while the 25-year probation was unfunded. Ultimately, the Senate never considered the proposal and it was not included in the final bill.

Status: Did not pass

Civil Commitment Changes (SF 3673/HF 3782)
In early 2018, the Court of Appeals ruled that the current release statute for those civilly committed as mentally ill and dangerous or committed to the Minnesota Sex Offender Program (MSOP) must be fully discharged when the meet the standard that exists in case law. This is as opposed to the current practice of provisional discharge with supervision and conditions as the first phase of release from the facility. A bill was introduced that would have fixed this situation as well as conforming statute to U.S. Supreme Court case law on the subject. The Senate passed the bill as originally drafted, but the House preferred a narrower version of the bill that only dealt with the recent Minnesota ruling. The Senate acceded to the House position and the bill was sent to the governor. The effective date was crafted to apply to all committed patients, including those that are already in the process of moving toward conditional release.

Status: Signed in to law by the governor on May 29, 2018 (Chapter 194)

DOC Funding Request
The Department of Corrections had several items in their supplemental request, the most critical being funds for their inmate health care contract. Nearly $7 million was included in the omnibus bill for this purpose. Because the DOC has a contract in place, and because inmate health care is a constitutional obligation for the agency, cuts will need to be made as a result. It is not expected that these cuts will have a direct impact on the community services division (where county probation funding is located).

Status: Vetoed by the governor on May 23, 2018 (Chapter 201)

COURTS

Court Technology Fee
For the last several years, a small fee has been collected on every court filing and the funds directed to grants for technology projects related to interactions with the courts. The funds amounted to roughly $800,000 each year and the bulk of these grants went to counties; county attorneys, sheriffs and probation. The fee is due to sunset on July 30, 2018 and an extension of that sunset for five years was included in the Omnibus Supplemental Finance bill.

Status: Vetoed by the governor on May 23, 2018 (Chapter 201)

Courthouse Security Grants
The governor’s supplemental budget proposal included $1 million in one-time finds for another round of courthouse security grants. The Senate did have a hearing on this part of the budget but ultimately did not include it in their proposal. The House did not have a hearing on these funds and it was not a consideration on the final debates on the omnibus supplemental bill.

Status: Did not pass
**DWI CHANGES**

**DWI Laws Apply to Snowmobiles and ATVs (SF 3638/HF 3923)**

This bill more fully incorporates ATVs and snowmobiles into the DWI laws, including prohibition on operation because of DWI convictions.

*Status: Signed in to law by the governor on May 20, 2018 (Chapter 183)*

**Controlled Substances and DWI Modifications (SF 2578/HF 3479)**

As part of the annual revision to controlled substance schedules and other technical drug provisions, the Legislature also modified DWI law to broaden the types of substances for which DWI applies. Specifically, the law allows for DWI to apply to any intoxicating substance that “impairs the central nervous system or impairs the human audio, visual, or mental processes.” It also lowers the requirement from “knowingly” being under the influence to, “knowing or having reason to know” that the substance is intoxicating.

*Status: Signed in to law by the governor on May 29, 2018 (Chapter 195)*

**LAW ENFORCEMENT**

**Enhanced Penalties for Freeway and Other Protests (HF 390/SF 676)**

In debate that continued from the last session, a bill proposed to enhance the current penalties for obstructing freeways, mass transit and airport access roads as part of a protest. The House had included it in their omnibus bill, but it was not in the final bill. A standalone bill was also sent to the governor and vetoed.

*Status: Vetoed by the governor on May 19, 2018 (Chapter 150)*

**Civil Forfeiture Changes (HF 3725/SF 3419)**

Legislation was introduced that would have done away with the civil forfeiture as it currently operates and replaced it with a criminal forfeiture process. County attorneys and law enforcement were very concerned with this proposal and the immediacy of the civil process is where the impact comes from and would be lost in the proposed criminal process. Funds from forfeiture also find a variety of law enforcement functions and the budget hole would have to be made up by county levy dollars if the revenue dropped as was the anticipated result of the change. The bill had hearings, but did not advance out of the committee process.

*Status: Did not pass*

**Hands Free Cell Phone Requirement (HF 1180/SF 837)**

This was a high-profile issue that saw lots of media attention, but little action in the Senate. The House did advance their bill further in the process. Ultimately, the omnibus bill contained enhanced penalties for texting while driving as a nod to this serious issue, but stricter limits never made it to the governor’s desk in any form.

*Status: Did not pass*

**Tribal Law Enforcement Agreements (HF 3562/SF 3598 & HF 4374/SF 3955)**

Legislation was introduced to allow tribal law enforcement agencies to continue to operate as they have been even if the county board or county sheriff ends the law enforcement agreement that is required by current statute. The first version of the bill applied to all tribal agencies and counties in the state. A later version was introduced that would have only applied to Mille Lacs County. Neither version was heard, much less acted upon during this session.

*Status: Did not pass*
Going into the 2018 Session, it was unclear how much would get done after last year's successful passage of a transportation bill, tax bill, and bonding bill. As you may recall, the 2017 session was a catch-up year for the Legislature after a dismal 2016 Session. Although the Legislature passed a billion-dollar bonding bill in 2017, which was a makeup bonding bill after the Legislature failed to pass one in 2016 (the second year of a biennium is traditionally a bonding year). There was still a question as to whether there would be another bonding bill this year and if so, how large. How to spend the surplus was another question going into the 2018 Session. In the end, while another bonding bill was signed by the governor this year, tax conformity and a supplemental finance bill were vetoed. Here is a look at how it all played out in the transportation and infrastructure world.

TRANSPORTATION

Last year, the Legislature passed a comprehensive transportation funding bill that began to address the identified $600 million/year need for our transportation system. While last year's bill was a big step in the right direction, it did not include any new revenue from a constitutionally dedicated source and left many transportation advocates wanting more. After the February forecast identified a budget surplus for the state, many hoped that some of this funding would go towards transportation in addition to tax conformity, opioid abuse, and many other areas of need.

Once budget targets were announced, the House included $101 million for transportation from the budget surplus, while the Senate target only included $15 million specifically for MNLARS. The House took around $75 million of the total $101 million and put it directly into the Highway User Tax Distribution Fund (HUTDF), with $25.2 million going to the County State Aid Highway Fund (CSAH). The rest of the money went various places including $10 million to the Corridors of Commerce Program, $9 million to the deputy registrar’s reimbursement aid program, $7 million for the Small Cities Assistance Program, and beyond.

Both the House and Senate transportation omnibus bills included policy language that counties had concerns with. The House bill included a provision that would exempt sewage septic tank trucks from some weight limits on state roadways and allow for operation without a special permit. This was originally introduced as a standalone bill that allowed sewage septic tank trucks to be exempt from all vehicle weight restrictions, unlike other exempted vehicle types that must still follow bridge limits. Throughout the committee process, the bill was amended to bring septic tank trunks into similar compliance as garbage and recycling trucks and require septic tank trucks to follow bridge load limits. It was the amended bill language that was included in the House transportation omnibus bill, which was in much better shape for counties.

The House bill also included policy provisions relating to light rail transit to clarify the definition of operating costs in a provision specifying no state funds may be used for operating costs or ongoing maintenance of the proposed Southwest Light Rail route. It also required former CTIB counties to submit an annual report on the amount and use of Local Option Sales Tax (LOST) funds to transportation policy and finance chairs.
The original Senate Transportation Omnibus bill included policy provisions relating to the Corridors of Commerce program requiring that program funds be split 49% metro and 49% greater Minnesota. The Senate bill also included language detrimental to light rail transit, limiting light rail operating costs to the existing system, which would essentially cap service levels at the time of enactment, hindering the ability to increase frequency or service hours in the future. It also removed the state’s 50% share of LRT operating costs for Bottineau or other future LRT lines (there is already a provision restricting state funding for Southwest LRT). The Senate bill also prohibited co-location of light rail and freight rail, impacting future development of both the Southwest and Bottineau LRT projects.

Another concerning policy provision included in the Senate bill was related to speed limits on county roads. Originally introduced as a standalone bill to address a turnback in Grant County – a situation where a portion of a state highway was being turned back to the county but the desire was to keep the speed limit at 60 mph even after the turnback. The standalone bill that was introduced would have allowed a county to increase the speed limit on a county road from 55 mph to 60 mph by board resolution and without MnDOT conducting a speed study. AMC and the Minnesota County Engineers Association (MCEA) strongly opposed the standalone bill. It was amended during the committee process to include language that both AMC and MCEA were neutral on that allowed MnDOT to keep a county road at 60 mph after a turnback but still required a speed study to be completed. Although we were neutral on this, the underlying bill language still remained, which we opposed. These two provisions were included in the Senate transportation omnibus bill. In fact, once the Senate transportation omnibus bill was unveiled, it amended the underlying bill language one step further to allow for a county board to both increase or decrease the speed limit by five or ten mph on a county road by board resolution.

After the two individual House and Senate transportation omnibus bills were vetted through the committee process, the Senate language was included into one Omnibus Supplemental Finance Bill (SF 3656) and the House transportation omnibus bill language was combined with the House HHS omnibus bill language (HF 3138). Eventually, everything was wrapped into SF 3656, which included the highlighted provisions relating to transportation:

- Appropriated $10.71 million from the General Fund to the Local Bridge Replacement Program and $10 million from the Trunk Highway Fund to the Corridors of Commerce Program;
- Language relating to LRT operating and capital costs remained in the bill;
- Removed the provision allowing a county board by resolution to increase or decrease the speed limit on a county road by 5 or 10 miles per hour.

While the final language removed the surplus money that went to the CSAH, it still provided additional money for the Local Bridge Replacement Program and the Corridors of Commerce Program. And while bad policy language was still included in the bill, the only language relating to speed limits that remained was the amended language that allowed for MnDOT to keep a county road at 60 mph after a turnback, but still required a speed study and not just county board approval. In the end, the bill was vetoed by Governor Dayton.

**Status:** Vetoed by the governor on May 23, 2018 (Chapter 201)
BONDING

Going into the 2018 Session, many of AMC’s top priorities were bonding focused, as the second year of a biennium is traditionally a bonding year. Despite passing a billion-dollar makeup bonding bill during the 2017 Session, it was still expected that there would be another robust bonding bill this year. AMC’s bonding priorities were related to mental health bonding and three transportation related programs: the Local Road Wetland Replacement Program (LRWRP), the Local Road Improvement Program (LRIP), and the Local Bridge Replacement Program (LBRP). AMC introduced and worked on individual bills that would fund each of these programs and address the current need.

Mental Health Bonding

All 87 counties passed a resolution in support of mental health bonding, asking for $30 million for behavioral health crisis program facilities. This funding is an important step to build the infrastructure and strengthen our mental health system. Too often, individuals experiencing a behavioral health crisis end up homeless, in jail, or in the emergency room. This funding will allow for facilities where individuals can receive the level of mental health services they need. With this level of funding, counties will be able to work closely with local partners to plan to meet the mental health needs in their communities. Capital Investment Chairs in both the House and Senate were supportive of this program, giving hope that it would be included in a final package.

Local Road Wetland Replacement Program

After the program was underfunded in recent years and received no funding in 2016, the Board of Water and Soil Resources (BWSR) identified a need of $16.38 million this year. Because the program received no funding in 2016, we asked the Legislature for an emergency $5 million from the general fund at the beginning of the 2017 Session and then received another $5 million in bonding last year. Even with $10 million total received last year, two out of the ten wetland bank service areas are still at zero credits, potentially jeopardizing the 2019 construction season if the Legislature did not include funding again this year.

Local Road and Bridge Programs

Bills were introduced in both the House and Senate this year that would appropriate $100 million for both the LRIP and the LBRP. Last year’s bonding bill included $25.366 million in undesignated funding for the LRIP, which supported 36 projects across the state. Over 200 applications were submitted for that money, totaling over $151.4 million in bond requests. Last year’s bonding bill included $16.537 million in undesignated funding for the LBRP, which went toward 67 projects across the state. There are currently 140 bridge projects that are ready to go and have already been approved by MnDOT State Aid. While $100 million to each program was a lofty goal, it is clear that the need exists throughout the state.

Bonding bills are often one of the last big bills to be introduced during session, which was the case again this year. The House unveiled its bonding bill in early May, with the Senate bill shortly following. The original bonding bills proposed in the House and Senate both totaled $825 million in general obligation bonding and addressed AMC’s priorities as follows:

<table>
<thead>
<tr>
<th>House</th>
<th>Senate</th>
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<tbody>
<tr>
<td>• $25.1 million for Regional Mental Health</td>
<td>• $30 million for Regional Mental Health</td>
</tr>
<tr>
<td>Crisis Center Grants</td>
<td>Crisis Center Grants</td>
</tr>
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<td>o $1.9 million for the Scott County</td>
<td>• $50 million for Housing Infrastructure</td>
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<tr>
<td>Crisis Center</td>
<td>Bonds – Persons with Behavioral Health</td>
</tr>
<tr>
<td>• $72.32 million for LRIP (undesignated)</td>
<td>Needs</td>
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<tr>
<td>• $0 for LBRP</td>
<td>• $60 million for LRIP (undesignated)</td>
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<tr>
<td>• $5 million for LRWRP</td>
<td>• $15 million for LBRP (undesignated)</td>
</tr>
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<td></td>
<td>• $5 million for the LRWRP</td>
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</tbody>
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As you can see, both bills were strong in terms of AMC’s top priorities this year. The only benefit to the Senate bill was that it included funding for both the local road and local bridge programs. It’s important to note that when the House bonding bill was unveiled in the Capital Investment Committee, the chair mentioned that last year’s transportation funding bill took care of funding for small bridges, and that this bonding bill and future ones would take care of larger bridge projects. As a reminder, last year’s transportation funding bill dedicated all of the Motor Vehicle Leased Sales Tax (MVLST) money to transportation (prior to, the first $32 million was going to the general fund) and also readjusted the dedication of this money. The MVLST allocation will be distributed as follows in FY ’18-19:

- 13% Local Bridge Program – $25.194 million;
- 11% HUTDF – $21.318 million;
- 38% to Greater MN Transit – $73.644 million;
- 38% to 5 Metro Counties – $73.644 million.

The 13% LBRP money is what the committee chair referenced during his comments in committee. This money will become available to MnDOT State Aid this July. Even with the addition of this new dedicated funding for the LBRP, last year’s bonding bill still included an additional $16.537 million in undesignated funding for the program. Because of that, we were still hoping to get additional bonding money for this program in the final bill.

After both the House and Senate bonding bills made their way through the committee process, it was time for a vote on the floor. Bonding bills need more than a simple majority for passage, they need a 3/5 majority vote, which requires bipartisan support in both the House and Senate. During the final week of session, the House bonding bill was up for a vote first and easily reached the 3/5 majority threshold and passed by a vote of 84-39. Later that week, the Senate bonding bill was up for a vote and rumors were circling that it would not get any DFL votes. Since the Senate Republicans only have a one seat majority (34-33), several DFL votes were necessary to get the required 3/5 majority. In the end, the bill only passed by a simple majority and therefore failed. Even though the House bonding bill passed with flying colors, it was unclear what the likelihood of a bonding bill this session would be if there were no DFL votes in the Senate.

Criticism from DFL members in both the House and Senate throughout session was that the Legislature’s proposed bills were not large enough compared the $1.5 billion bonding proposal from the governor. Despite how large the governor’s proposal was, it did not include any local projects and very few transportation related projects. Most of it was for asset preservation and for higher education – no money for the local road and bridge programs and only $5 million for the LRWRP.

By the final day of the 2018 Session, it seemed a compromise on bonding had been reached. A conference committee met late on Sunday, May 20 to go over the agreed upon language. Nearing midnight, the Senate amended the new language that was introduced that afternoon in the conference committee and amended it on to HF 4425, with the addition of an amendment to the amendment that supposedly was the product of a global agreement. The agreement was a bonding bill that totaled $1.43 billion in total appropriations, which included $825 million in general obligation bonding.
AMC priorities contained in the final bonding bill that passed on the last day of session:

- $28.1 million for Regional Mental Health Crisis Facilities;
  - $1.9 million for the Scott County Crisis Center;
  - $30 million for Housing Infrastructure for Persons with Behavioral Health Needs;
- $35 million for the Local Road Improvement Program (LRIP), undesignated;
- $5 million for the Local Bridge Replacement Program (LBRP), undesignated;
- $6.7 million for the Local Road Wetland Replacement Program (LRWRP).

The bill also includes $400 million for the Corridors of Commerce Program. Of that funding, $150 million for 2022, $150 million for 2023, and $100 million for 2024. The language also directs MnDOT to use the 2018 scoring criteria for the project selection process and states that the department must select at least two projects outside the MnDOT metro district – for projects outside the metro district, the commissioner must not select a project located within a county within which a project was selected for funding in the spring 2018 evaluation.

The bill passed out of the Senate by a vote of 42-25 (41 votes were needed). It was then sent to the House, where it passed by a vote of 113-17 (80 votes were needed). Because of the strong bipartisan support on both sides, it was generally assumed that the governor would sign this bill. Governor Dayton did sign the bill, albeit reluctantly, but he included a line item veto of $1 million in the 2020-2021 biennium to review the scientific work of the Minnesota Pollution Control Agency for water quality standards and permits.

Despite going into the 2018 Session worrying that the Legislature might not pass a bonding bill and then a rocky ride at the end of session with DFL support in limbo, we officially have a bonding bill that was passed and signed by the governor that exceptionally addresses our AMC priorities.

*Status: Signed into law by the governor on May 30, 2018* (Chapter 214).

**BROADBAND**

Funding for broadband infrastructure was another AMC priority this year. During the 2017 Session, the Legislature funded the Border-to-Border Broadband Grant Program with $20 million in FY2018. During the 2017 grant cycle, the Office of Broadband Development received over 70 applications, totaling over $50 million in requests. Of those 70 applications, 26 projects were awarded.

Last fall, the Governor’s Task Force on Broadband submitted its 2017 Annual Report to the Legislature, recommending an investment of $71.48 million in on-going biennial funding to the Border-to-Border Broadband Grant Program, until the state achieves its speed goals. Typically, the program has been funded on an annual basis, while many have advocated for biennial funding in order for the proper planning to occur. Currently, the state has a broadband speed goal of connecting all Minnesotans with broadband internet speeds of 100 Mbps download/20 Mbps upload by 2026.

Based on the recommendations of the task force, broadband advocates joined forces led by the MN Rural Broadband Coalition at the Legislature during the 2018 Session. After the $20 million investment made by the Legislature during the 2017 Session for FY2018 and factoring in the task force’s recommendation of $71.48 million over the biennium until the speed goals are met, the coalition set its sights on asking the Legislature for $51.48 million during the 2018 Session for FY2019. Representative Sandy Laymen (R-Cohasset) and Senator Mark Koran (R-North Branch) introduced bills to reflect this dollar amount and a bipartisan group of legislators in the House and Senate were strong advocates for broadband funding this session. The House bill had a hearing in committee on April 12, which was Broadband Day on the Hill.
When the governor released his supplemental budget proposal for FY 18-19 this session, he included $30 million for broadband. When budget targets were released this session, both the House and Senate included $15 million for broadband, which was included in the Jobs omnibus bill on both sides. During markup of the bill in the House committee, an amendment was added by Chair Pat Garofalo (R-Farmington) that would require $750,000 of the $15 million for the grant program go toward satellite broadband providers. The money would go to 1,000 unserved consumers to aid in satellite equipment installment as well as to lower monthly subscription fees for one year, but only be required to meet speed goals of 25 Mbps download/3 Mbps upload. On the Senate floor, the Jobs omnibus bill was amended by Senator Ron Latz (DFL-St. Louis Park) requiring recipients of broadband infrastructure grants to adhere to Net Neutrality rules when providing broadband internet services to consumers.

When the Omnibus Supplemental Finance Bill (SF 3656) was unveiled, it included $15 million for the Border-to-Border Broadband Grant Program, with none of the additional language that had been added in committee or on the floor. With the governor’s recommendation still at $30 million, many wondered if the Legislature’s final amount would increase during end of session negotiations. In the end, $15 million was the agreed upon number during negotiations. Unfortunately, this was part of the final Omnibus Supplemental Finance Bill that was vetoed by the governor, as promised. Because broadband funding was included in this final mega omnibus bill, it was beholden to the veto pen and therefore the Border-to-Border Broadband Grant Program will go unfunded in FY2019. Broadband advocates will continue to push hard for the recommended $71.48 million over the next biennium during the 2019 Session.

*Status: Vetoed by the governor on May 23, 2018 (Chapter 201)*

**OTHER LEGISLATION**

**Ditch Mowing**

Mowing and haying has been a hot topic at the Legislature over the past several years. Last year, the Legislature passed a bill calling for a moratorium on the Commissioner of the Department of Transportation from requiring permits for mowing and haying in the state trunk highway right-of-way and also called for MnDOT to oversee a stakeholder group on the topic. AMC and MCEA participated in this stakeholder group and the culmination of this group resulted in a report to the Legislature in March.

The report focused on agreed upon changes to ease the MnDOT permitting process and also mentioned discussions had by the stakeholder group on ways to amend the current mowing and haying statute. It became clear once session started that this was still a focus for many legislators. Several bills were introduced that would impact mowing and haying – some requiring road authorities to reimburse land owners for noxious weed control and another that would have required road authorities to control noxious weeds, punishable with fines for noncompliance.

The one bill that got any real traction this year was introduced by Representative Chris Swedzinski (R-Ghent) and Senator Gary Dahms (R-Redwood Falls) that would extend the current one-year moratorium on MnDOT permitting that passed during the 2017 Session for another year – until April 30, 2019. While a formal stakeholder group wasn’t created with this year’s legislation, last year’s stakeholder group met during session to discuss next steps. It was decided that the focus going forward will be to try and find consensus as a group on ways we can improve the current mowing statute, specifically with regards to the current dates allowed for mowing (August 1-31). Ultimately, the dates need to be fixed before the MnDOT permit process is reinstated in May of 2019.

*Status: Signed by the governor on May 19, 2018 (Chapter 165).*
Threatened and Endangered Species

This year, both AMC and MCEA adopted platform positions in support of the current statutory exemption relating to the mitigation of threatened and endangered plant species on existing roads and ditches. This exemption has been tested by the DNR in recent years and it became evident that further clarification was needed. MCEA introduced legislation to clarify the exemption by including a statutory definition of public road right-of-way found in Minnesota Statutes 84.92 subdivision 6(a) within the threatened and endangered species statute, Minn. Stat. 84.0895.

On the House side, the bill was heard in the House Environment and Natural Resources Policy & Finance Committee on March 22. The bill was laid over for possible inclusion in the House Environment Omnibus Bill. On the Senate side, the Senate Environment and Natural Resources Policy & Legacy Finance Committee added the language from SF 3460 (Weber) as an amendment to the Senate Environment Omnibus Policy bill – SF 3141 (Ruud).

Throughout session, we continued to work with the DNR on compromise language and discussed how we would develop a procedure for dealing with mitigation of threatened and endangered species on new right-of-way. In the end, we were able to find agreement and compromised on language with the DNR, which was added to the environment and natural resources portion of the Omnibus Supplemental Finance Bill. Unfortunately, this bill was vetoed by the governor. We will continue to work with the DNR in the interim to discuss whether or not we should introduce the bill again next year or work on a solution outside of the Legislature for both existing right-of-way and new right-of-way.

Status: Vetoed by the governor on May 23, 2018 (Chapter 201)

Constitutional Amendment

As mentioned above, last year’s transportation funding bill left many hoping for more – and soon. Last year’s bill – amongst other things – statutorily dedicated half of the auto parts sales tax revenue to transportation, phased in over the next few biennia. This was part of the Republican Legislature’s plan to adequately fund the state’s transportation needs. Transportation advocates started the discussion over the interim to push for the Legislature to constitutionally dedicate all of the auto parts sales tax revenue through an amendment on the ballot in 2018. This would be a considerable change to what was included in the 2017 transportation funding bill because instead of taking half of the auto parts sales tax revenue and statutorily dedicating it to the HUTDF, a constitutional amendment would take all of the revenue and constitutionally dedicate it to the HUTDF – a change that would be hard, if not nearly impossible, to undo in the future.

Last year, AMC reversed a long-standing position of opposing general fund dollars to fund transportation and supported re-directing revenue collected from the sales tax on auto parts as part of a compromise solution. This past December, AMC amended its platform to include language to support constitutionally dedicating the revenue from the sales tax on auto parts to the HUTDF. Despite the adoption of this language in our platform, the issue did not rise to the level to be included as one of our priority items this legislative session. Some of our counties raised concerns about constitutionally dedicating this revenue when there are many other county programs that rely on general fund dollars.
When the 2018 Session began, it was unclear which legislators, if any, were interested in introducing language relating to the constitutional amendment. In the end, the Senate Transportation Committee Chair and House Transportation Finance Committee Chair introduced the bills.

The Senate language was introduced and heard first, at the end of March before the second legislative committee deadline. During the committee hearing, a delete all amendment was offered to the bill, which would have constitutionally dedicated all of the sales tax on auto parts, as well as the sales tax on leased vehicles and rental vehicles. The revenue from the sales tax on auto parts and rental vehicles would be phased in over 3 years – FY2020, FY2021 and FY2022. The bill also created a leased vehicle sales tax revenue section in the Minnesota Constitution. If the constitutional amendment was adopted, beginning July 1, 2019, 100% of the revenue from the leased vehicle sales tax would be dedicated to transportation and apportioned according to the law passed during the 2017 Session, which provides funding for the CSAH fund, Greater Minnesota transit, a local bridge fund, and the HUTDF. The apportionments and the dollar amounts would not change from what was passed last year.

In the Senate language, the question that would be placed on the ballot was as follows:

“Shall the Minnesota Constitution be amended so that the following taxes already being collected are used exclusively for road and bridge construction and transportation purposes: sales tax on vehicle and trailer repair and replacement parts, taxes on rental vehicles and the motor vehicle lease sales tax?”

Despite the hearing in the Senate Transportation Committee before the second committee deadline, the bill still technically did not make deadline and was sent to the Senate Rules Committee. It was eventually heard there and re-referred to the Senate Committee on Taxes, where it stayed for the remainder of session.

Originally, the plan was for the Senate to take the bill through the committee process and pass it off the Senate floor before the House acted on the companion. In fact, the House companion bill was not even introduced until the middle of April.

The House bill differed greatly from the Senate version. The House language stated that if the amendment were adopted by voters, it would go into effect July 1, 2020. Under a formula that would be created, 95.5% of revenue collected would be allocated to the HUTDF for use on state roads and highways. The remaining 4.5% of revenues would be directed to the Small Cities Assistance Program to fund local road projects. The dedicated funding would be phased in over fiscal years 2021-24, distributing 60% of estimated revenue to transportation in Fiscal Year 2021 and increasing to 100% starting in Fiscal Year 2025.

In the House language, the question that would be placed on the ballot was as follows:

“Shall the Minnesota Constitution be amended to increase funding for roads and bridges by dedicating existing sales tax revenue from the sale of motor vehicle parts?”

In an unexpected turn of events, the House decided to take up the bill for a vote on the House floor during the last week of session and passed it by a vote of 76-54. After passage on the House floor, the bill was sent to the Senate and immediately referred to the Senate Tax Committee. Ultimately, this bill did not pass off both the House and Senate floor this session. Time will tell if proponents push the measure again before the 2020 election.

Status: Did not pass (HF 4437).
Property Assessed Clean Energy (PACE)

During the 2017 Session, the Legislature passed a measure that limited the operation of Residential Property Assessed Clean Energy (R-PACE) in Minnesota and created a stakeholder group through the Department of Commerce to identify the necessary consumer protections that must be in place before R-PACE can be up and running in the state. AMC and the League of Minnesota Cities participated in the stakeholder group that met throughout the interim and culminated with a report to the Legislature in January.

AMC supports R-PACE as a voluntary financing option for property owners to make necessary improvements to their homes. PACE helps accelerate private investments in a variety of local economic development projects, improves the local housing stock, and creates local jobs. With over 50 counties currently participating in Commercial PACE, many have also expressed interested in R-PACE. Minnesota has been a leader in Commercial PACE, as the state’s commercial PACE program is the third largest in the country with 130 projects completed worth $50 million.

R-PACE would offer Minnesota homeowners the option of paying off loans for energy efficiency and solar projects annually through their property taxes over terms of five to 20 years. Currently three states have operating R-PACE programs – California, Florida, and Missouri.

While consumer protections were much of the focus, discussion on the lien priority of a PACE assessment was also a serious point of discussion, and one that split stakeholder participants. The bill that was introduced in the Legislature this session defined the PACE assessment as a loan, which means R-PACE liens would be paid after mortgages and most other loans if homeowners default – increasing the risk for energy lenders. The three states that have an operating R-PACE program, all give the assessment a primary lien position. Colorado and Vermont have enabling legislation like the proposed Minnesota law and have yet to see any PACE activity.

With the bill as introduced, AMC had concerns with the language relating to the lien position. Right now, special assessments against a property have priority lien status. There is no mechanism in statute to treat liens on a fractional basis – with part as a priority lien and part as subordinate to other liens. This would dilute the effectiveness and absoluteness of the current forfeiture process.

The bill that was signed by the governor put in place many important consumer protections for the enabling R-PACE program in Minnesota, but it also maintained the subordinate lien status. This leaves the future of R-PACE unknown in the state, as time will tell if energy lenders will choose to participate in the program in Minnesota.

*Status: Signed into law by the governor on May 19, 2018 (Chapter 155).*