Short Subjects

Minnesota House of Representatives, House Research

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Deborah Dyson

Updated: January 2017

Compensation Limits for Local Government Employees

State law limits compensation for local government employees

State law limits the compensation for an employee of a political subdivision to no more than $167,978 for 2017 unless a waiver of the limit applies to the position. Minn. Stat. § 43A.17, subd. 9.

The compensation limit for local government employees applies to employees of statutory and home rule charter cities, counties, towns, metropolitan and regional agencies, and other political subdivisions. The compensation limit does not apply to school districts, hospitals, clinics, or health maintenance organizations owned by a governmental unit, or to medical doctors and doctors of osteopathy.

State law determines what is included in "compensation"

The statute specifies what is considered compensation for purposes of the limit. For political subdivision employees, compensation includes certain benefits as well as salary. The statute determines what is included and excluded for purposes of the compensation limit.

Included

- All deferred compensation
- All direct and indirect items of compensation that are not specifically excluded by the statute (e.g., cash allowance for personal use of a car is included)

Excluded

- Benefits that are provided for the majority of all other full-time employees of the political subdivision, vacation and sick leave, health and dental insurance, disability insurance, term life insurance, and pension benefits
- Dues paid to civic, professional, educational, or governmental organizations
- Reimbursement for actual expenses that are directly related to the job

The statute contains a process and criteria for granting exemptions

The Commissioner of Management and Budget may increase the compensation limit for a position that the commissioner determines requires special expertise necessitating a higher salary to attract or retain a qualified person. In making this determination, the commissioner must consider salary rates paid to other people with similar responsibilities in the state and nation. Before granting an exception to the salary limit, the commissioner also must seek the advice of the Legislative Coordinating Commission. Any increase must also be adjusted annually by any increase in the Consumer Price Index (CPI) from the prior year. Minn. Stat. § 43A.17, subds. 3 and 9.

According to Minnesota Management and Budget (MMB), as of January 1, 2017, a local government may increase by 1.6 percent the compensation of an employee with an existing waiver for compensation that exceeds the current limit. If the existing approved waiver amount is below the current limit, the local government may increase an employee's compensation to the limit without a waiver.

The legislature has been addressing the issue of political subdivision salary caps since 1977

In 1977, the legislature provided that no political subdivision employee could be paid more than the Commissioner of Finance. The 1980 Legislature repealed the political subdivision salary cap. In 1983, the legislature enacted something similar to the current cap—compensation for local government employees was limited to 95 percent of the governor's salary. There have been various refinements to the law since 1983. Most significantly, in 1993 the legislature clarified what types of compensation are to be included when comparing a political subdivision employee's compensation to the governor's salary.

In 2005, the legislature debated repealing the cap altogether but decided to increase the cap to 110 percent of the governor's 2005 salary, with an annual adjustment for inflation using the CPI for all urban consumers in the prior year. The reference to 110 percent of the governor's salary is still in law, but is not currently relevant because the inflationary increases prescribed by law have made the current limit of $167,978, much higher than 110 percent of the governor's salary. (Since 2016, 110 percent of the governor's salary is $140,392.) For a chart on the current limits with CPI increases, see the MMB website at https://mn.gov/mmb/employee-relations/compensation/laws/local-gov/comp-limits/lgcomplimitsbyyear.jsp.

The local government limits do not apply to state employees

The statute limiting political subdivision salaries does not cover state employees. State law assigns executive branch agency heads to two salary ranges, which are capped at 133 percent and 120 percent of the governor's salary. Minn. Stat. § 15A.0815, subds. 2 and 3. (These limits are adjusted annually for inflation.) Until 2013, the salary of employees of executive branch agencies was limited to the salary of the agency head, but this limit was repealed in 2013. Salaries for these employees are set by collective bargaining agreements or compensation plans that are approved by the legislature.

For more information: Contact legislative analysts Deborah Dyson at deborah.dyson@house.mn. Also see the House Research publications *State Agency Head Salaries*, June 2016, and *State Elected Officials' Compensation*, January 2016.

Sarah Sunderman & Elisabeth Klarqvist

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State Regulation of Health-Related Occupations

Who regulates health-related occupations in Minnesota?

At least 56 health-related occupations are regulated by the state. Health-related occupations regulated by the state are overseen by either the Minnesota Department of Health (MDH) or by a health-related licensing board. As of December 2016, there were 16 health-related licensing boards and two divisions in MDH that oversee health-related occupations. Some licensing boards regulate a single occupation, while others regulate a range of related occupations. For example, the Minnesota Board of Optometry only regulates optometrists, while the Minnesota Board of Medical Practice regulates acupuncturists, athletic trainers, genetic counselors, naturopaths, osteopaths, physician assistants, physicians, respiratory care practitioners, and traditional midwives. MDH regulates various allied health professionals, such as speech-language pathologists and audiologists; various environmental health professionals, such as lead workers; and unlicensed complementary and alternative health care practitioners.

How are health-related occupations regulated?

Health-related occupations may be regulated in one of several ways. Where necessary and appropriate, state law allows two or more of these methods of regulation to be utilized at the same time. The title a provider uses cannot always be relied upon to determine how the provider is regulated. For instance, a registered nurse is actually licensed, not registered. What follows are some methods of occupational regulation.

- *Licensure* is the most stringent form of regulation. Under licensure, a person cannot practice in an occupation unless the person has satisfied predetermined qualifications for practicing and has been recognized by the state as having met those qualifications. Minn. Stat. § 214.001, subd. 3, cl. (4). This is also known as "scope of practice protection." A person may demonstrate that the required qualifications have been met by passing a licensing examination, graduating from an accredited educational institution with a relevant degree, or working in the field while under supervision. Example: dentists.
- With *registration*, only registered persons who have met predetermined qualifications for practicing are allowed to use a designated title ("title protection") and are listed on an official roster. Minn. Stat. § 214.001, subd. 3, cl. (3). Under a registration system, it is possible for a person to practice in an occupation without being registered, as long as the person does not use any protected titles. Occupations that are licensed generally also prohibit nonlicensed persons from using protected titles. Example: athletic trainers.
- To obtain *certification*, a person must satisfy the qualification requirements specified in statute or rule. It may be possible for a person

to practice in an occupation without being certified, but other laws may allow only a certified professional to be on-site at a specific program, perform certain functions, or supervise other personnel. Example: food managers.

- Some occupations are not licensed, registered, or certified, but providers are required to conform to a *client bill of rights* and *not engage in prohibited conduct.* A regulatory body has authority to investigate complaints against these providers and take and enforce disciplinary actions against providers for engaging in prohibited conduct or violating the client bill of rights. The regulatory body may revoke or suspend the provider's right to practice. Example: unlicensed complementary and alternative health care practitioners.
- *Criminal and civil penalties* exist to punish or prevent illegal acts by providers. Laws imposing criminal or civil penalties are enforced by consumers or prosecutors.

How does the legislature decide if a health-related occupation should be regulated?

No occupation may be regulated by the state unless its regulation is required for the safety and well-being of Minnesotans. Minn. Stat. § 214.001, subd. 2. This standard applies to both health-related occupations and nonhealth-related occupations. When the legislature determines whether an occupation should be regulated, it must consider the following factors:

1. Whether the unregulated practice of the occupation may harm the health, safety, and welfare of Minnesotans in a recognizable way
2. Whether practicing the occupation requires special skills or training, and whether the public would benefit from being assured of the person's ability to practice the occupation
3. Whether Minnesotans may be protected more effectively by means other than occupational regulation
4. Whether the overall cost-effectiveness and economic impact of regulation would be positive for the state

What information must be submitted to the legislature regarding proposals to regulate a new occupation or expand regulation of an already-regulated occupation?

If a bill is introduced in the legislature to regulate a new occupation or to expand regulation of an already-regulated occupation, supporters of the proposal must submit to the legislature evidence supporting the new or expanded regulation. Minn. Stat. § 214.002, subd. 1. The information must be submitted in written form and must be provided to the chairs of the House and Senate committees with jurisdiction over the occupation at issue. The subjects that must be covered in the report are specified in statute. Minn. Stat. § 214.002, subd. 2. Some of them include specifying the harm to the public caused by the unregulated practice of the occupation or continued practice at its current level of regulation; explaining why the proposed level of regulation is being proposed; and discussing how the proposed regulation would impact the supply of providers and the cost of the provider's services.

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HOUSE RESEARCH | Short Subjects

Nina Manzi

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Federal Taxable Income, the starting point for calculating Minnesota income tax

What is federal taxable income (FTI)?

Federal taxable income is the tax base used to calculate federal income tax liability. It is also the starting point for calculating Minnesota taxable income, the tax base used to calculate Minnesota income tax liability. Federal taxable income equals federal adjusted gross income (FAGI) after deductions and exemptions.

Federal adjusted gross income (FAGI)	–	Standard *or* Itemized deductions	–	Personal and Dependent exemptions	=	Federal taxable income (FTI)

What kinds of income are included in FAGI?

FAGI includes most kinds of cash income: wages, salaries, and tips; taxable interest; dividends; alimony received by the taxpayer; business income or loss; capital gains or losses; other gains or losses; taxable IRA distributions; taxable pension and annuity distributions (the taxable portion excludes recovery of amounts that were included in FAGI when the contributions were made); income from rental real estate, royalties, partnerships, S corporations, and trusts; farm income or loss; unemployment compensation; and taxable Social Security benefits (the amount taxable depends on the individual's income level; at most, 85 percent of benefits are included in FAGI). FAGI does not include child support received by the taxpayer.

What kinds of income are excluded from FAGI?

FAGI excludes: deductible IRA, SEP, SIMPLE, and other retirement contributions; nontaxable employee fringe benefits; deductible student loan interest payments; Health Savings Account contributions and investment income; moving expenses; one-half of self-employment tax; health insurance premiums (for self-employed taxpayers only); penalty on early withdrawal of savings; alimony paid by the taxpayer; and $250 of teacher classroom expenses. FAGI does not exclude child support paid by the taxpayer.

What deductions are allowed from FTI?

Taxpayers may claim either the standard deduction or itemized deductions. In tax year 2014, the most recent year for which data is available, 64 percent of Minnesotans claimed the standard deduction and 36 percent itemized.

How much is the standard deduction?

In tax year 2017, the standard deduction is as follows:

- $12,700 for married couples filing joint returns
- $6,350 for married couples filing separate returns
- $9,350 for head of household filers
- $6,350 for single filers

What itemized deductions are allowed?

In tax year 2017 itemized deductions are allowed for the following:

- Payments of state and local property taxes and either income or sales taxes
- Mortgage interest
- Charitable contributions
- Medical expenses and health insurance premiums in excess of 10 percent of FAGI
- Casualty and theft losses in excess of 10 percent of income
- Job expenses and miscellaneous expenses (most only allowed in excess of 2 percent of income)

What personal and dependent exemptions are allowed?

Taxpayers may claim one personal exemption each and one dependent exemption for each dependent claimed. For tax year 2017, the personal and dependent exemptions are $4,050 each. A family of four qualifies for four exemptions, totaling $16,200.

Are there limits on deductions and exemptions?

The federal American Taxpayer Relief Act of 2012 (ATRA) revived and made permanent the limitation on itemized deductions and phaseout of personal and dependent exemptions for taxpayers with incomes over a threshold.

The limit takes away some of the benefit of the deduction for higher income taxpayers. Taxpayers subject to the limit have their deductions reduced by 3 percent of their FAGI over the applicable thresholds. But they are always guaranteed 20 percent of the deductions, no matter how high their FAGIs are.

ATRA also provides for personal and dependent exemptions to be phased out for taxpayers with incomes over a threshold. Affected taxpayers lose 2 percent of their total exemption amount for each $2,500 of income over the threshold.

The table shows the income thresholds for the itemized deduction limitation and the personal and dependent exemption phaseout in effect in tax year 2017. The income thresholds are adjusted annually for inflation.

Tax year 2017	**Itemized deduction limit and personal and dependent exemption phaseout begins at**
Married joint filers	$313,800
Married separate filers	$156,900
Single filers	$261,500
Head of household filers	$287,650

For more information: Contact legislative analyst Nina Manzi at 651-296-5204 or Joel Michael at 651-296-5057. Also see the House Research publication *Income Tax Terms: Deductions and Credits*, July 2015.

Nina Manzi and Joel Michael Updated: January 2017

Minnesota Individual Alternative Minimum Tax

What is the alternative minimum tax?

The federal and state alternative minimum taxes (AMT) require taxpayers who benefit heavily from some tax preferences to pay a minimum amount of tax relative to their incomes. The AMT requires taxpayers to pay tax under an "alternative" tax with a broader base and lower tax rates, if that results in higher tax liability than the regular tax.

What is the history of the AMT?

The first version of the federal tax was enacted in 1969 in response to the revelation that a number of "millionaires" were paying no federal income tax. Minnesota first enacted an AMT in 1977. For some time during the 1970s and 1980s, both the federal and state taxes were levied as "add-on minimum" taxes, rather than alternative minimum taxes, and required certain taxpayers to pay a fraction of some preferences as an add-on minimum tax. The current structure of the two taxes (as alternative, rather than add-on, taxes) has been in place since the 1986 federal reform and 1987 state reform. Both Congress and the legislature have made many changes, both in defining the base of the taxes and their rates.

How is Minnesota's AMT structured?

Minnesota's AMT roughly follows the federal AMT. Both require taxpayers to compute a tentative liability under a second tax structure. This second tax structure, the AMT, has a broader tax base (due to fewer deductions, exemptions, and credits) and lower rates than the regular tax. If the tentative tax is higher than the taxpayer's regular tax liability, the taxpayer pays the difference. In effect, the AMT takes away part of the benefit of tax preferences that lowered the regular tax.

Who pays the AMT?

AMT filers fall into three main groups:

- Those who have large amounts of deductions or credits that are allowed under the regular tax but not under the AMT
- Taxpayers with large families whose personal exemptions and standard deduction (or typical itemized deductions) under the regular tax exceed the flat exemption amount allowed under the AMT
- Taxpayers with income above the level at which the AMT exemption is fully phased out

How are the federal and state AMTs different?

The federal and state AMTs have two major differences.

- The federal AMT allows the deduction of home mortgage interest; the Minnesota AMT does not.
- The Minnesota AMT has one flat rate, while the federal tax has two rates.

How are the Minnesota regular tax and AMT different?

The Minnesota AMT uses a broader tax base than the regular tax does and applies a single 6.75 percent rate against that base. The following table outlines the parameters of the Minnesota regular and alternative minimum tax.

Comparison of Minnesota's Regular Income Tax and AMT
($ amounts are for the 2017 tax year)

Feature	Regular Tax	AMT
Tax base	Federal adjusted gross income	Federal adjusted gross income
Rules carried over from federal AMT that add to tax base		Less generous depreciation rules Incentive stock options Depletion Intangible drilling costs Tax-exempt interest from private activity bonds
Standard deduction	$12,700 (married joint) $6,350 (single) $9,350 (head of household)	$74,280 for married joint (phased out for income from $150,000 to $447,120) $55,710 for single and head of household (phased out for income from $112,500 to $335,340)
Personal exemptions	$4,050 per taxpayer, spouse, and dependents	None
Itemized deductions	Home mortgage interest	Not allowed (federal allows, with limits)
	Charitable contributions	Allowed
	Property taxes	Not allowed (same as federal)
	Medical expenses	Allowed
	Miscellaneous deductions (e.g., employee business expenses)	Not allowed
	Casualty losses	Allowed
Tax rates	5.35%; 7.05%; 7.85%; 9.85%	6.75% (federal is 26%; 28%)
Tax credits	Credit for taxes paid to other states	Allowed
	Transit passes	Not Allowed
	Other nonrefundable credits (long-term care insurance, marriage credit, past military service, health insurance premiums)	Allowed
	Refundable credits (working family, dependent care, K-12 education, combat zone service, bovine tuberculosis, angel investment, historic structure rehabilitation)	Allowed, but the K-12 credit is reduced by AMT liability

How much revenue does the AMT raise?

The Minnesota AMT is estimated to raise about $23.6 million in tax year 2017, from about 9,500 taxpayers. The amount of revenue and the number of taxpayers paying the AMT are expected to increase in future years. Although the exemption is indexed annually for inflation, the AMT will tend to increase as real income increases and as AMT preference items, such as home mortgage interest and property taxes, increase more rapidly than inflation.

For more information: Contact legislative analysts Nina Manzi at 651-296-5204 or Joel Michael at joel.michael@house.mn.

The Research Department of the Minnesota House of Representatives is a nonpartisan office providing legislative, legal, and information services to the entire House.

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Penalties for Underreporting Minnesota Individual Income Tax

What is the civil penalty for failure to pay Minnesota income tax by the due date?

For calendar year taxpayers, final payments are due on April 15 following the close of the tax year. (Most taxpayers pay on a calendar-year basis; a small number use fiscal years instead.) Income tax not paid by April 15 is subject to a late payment penalty equal to 4 percent of the amount not paid.

An additional 4 percent penalty applies to amounts owed due to an assessment order from the commissioner of revenue if the taxpayer either does not pay the amount assessed within 60 days of the order or does not appeal the assessment.

An additional extended delinquency penalty of 5 percent of the tax due applies to income tax not paid within 180 days of an order from the commissioner or the date a return is filed.

Is there a reasonable cause exception?

Yes. A taxpayer is presumed to have reasonable cause for underpayment if the taxpayer paid 90 percent of the amount due by the April 15 due date, filed the return by October 15, and paid the balance of the tax due when the return was filed. In this situation, the 4 percent late-payment penalty does not apply.

What is the "additional tax charge"?

Individuals who expect to owe $500 or more after withholding and credits must make estimated payments, which are due in four installments: April 15, June 15, and September 15 during the tax year, and January 15 following the close of the tax year. If estimated payments and withholding do not equal at least 90 percent of the tax due, or 100 percent of liability for the preceding tax year (110 percent if adjusted gross income exceeds $150,000), the taxpayer is subject to an additional tax charge. The additional tax charge equals 4 percent of the amount underpaid, prorated by the number of days elapsed between the due dates of the four installments and the date of the final payment.

The additional tax charge does *not* apply if the individual was a Minnesota resident in the preceding tax year but did not have tax liability.

What is the civil penalty for failure to file a return?

For calendar year taxpayers, income tax returns are due by April 15 following the close of the tax year, but there is no late filing penalty if the return is filed by October 15. Taxpayers who fail to file an individual income tax return by October 15 must pay a penalty equal to 5 percent of the tax not paid by October 15.

If an individual is required to file a return and does not file it by October 15 and receives a written demand to file from the Department of Revenue, the individual must file within 60 days or face an additional "extended late file" penalty. The extended-late-file penalty equals the greater of 5 percent of the tax not paid or $100.

What other civil penalties are there?

- **Failure to report changes to the federal return: 10 percent.** When a federal return is amended by the taxpayer or corrected by the Internal Revenue Service, a copy of that return or a letter of explanation must be reported to Minnesota within 180 days. An amended Minnesota return is also required within 180 days. If federal changes are not reported, a penalty of 10 percent of the underpayment of Minnesota tax attributable to the federal change applies.
- **Intentional disregard of laws: 10 percent.** A 10 percent penalty applies if the taxpayer has been negligent or shown intentional disregard of the law or rules for determining liability, but didn't intend to defraud.
- **Substantial understatement of liability: 20 percent.** "Substantial understatement" means underreporting of the correct tax that exceeds the greater of $5,000 or 10 percent of the tax actually owed. A penalty of 20 percent applies to a substantial understatement of liability.
- **Filing a frivolous return: greater of 25 percent or $1,000.** A return is considered frivolous if it is substantially incorrect on its face or lacks information needed to judge the accuracy of the return, and consists of inappropriate conduct or reflects a desire to impede the tax process.
- **Filing a false or fraudulent return: 50 percent.** A penalty of 50 percent applies to the underreported liability and overstated refund claimed if the commissioner can prove the return was fraudulent in order to evade the tax, or if failure to file a return was intended to evade the tax. The 50 percent penalty also applies to fraudulently claimed refundable credits (the dependent care credit, the working family credit, the K-12 education credit, the military service combat zone credit, and the property tax refund).

Does interest apply to underreported tax liability and penalties?

In addition to the penalties listed, taxpayers who underreport individual income tax liability must pay interest on the amount underpaid and on the associated penalty from the date the tax was due. Penalties and underreported liability bear interest at an annual rate tied to the prime rate. This rate is adjusted annually and is set at 4 percent for 2017; it was at 3 percent for 2010 to 2016.

How are the penalties applied?

The penalties for underreporting of individual income tax liability are imposed and collected in the same manner as the original taxes.

Are failing to file and underreporting liability criminal offenses in Minnesota?

In certain circumstances, failing to file and underreporting tax liability are criminal offenses. It is a gross misdemeanor to knowingly fail to file a return or pay tax. It is a felony to willfully fail to file a return or pay tax, with intent to evade the tax, and a felony to file a false return concerning a material matter. Penalties for these criminal offenses are in addition to civil penalties.

For more information: Contact legislative analysts Nina Manzi at 651-296-5204 or Joel Michael at joel.michael@house.mn.

HOUSE RESEARCH | **Short Subjects**

Nina Manzi **Updated: January 2017**

The Minnesota and Federal Dependent Care Tax Credits: An Overview

What are the credits?

The Minnesota and federal dependent care credits partially offset the cost of child care for certain workers. The maximum Minnesota credit is $720 for one child and $1,440 for two or more children. The maximum federal credit is $1,050 for one child and $2,100 for two or more children.

Are the credits refundable?

The Minnesota credit is fully refundable. If an individual qualifies for a credit that is greater than his or her tax liability, the excess is paid as a refund. The federal credit is not refundable and may only be used to offset federal income tax liability.

Who is eligible for the credits?

Anyone who incurs expenses related to the care of a dependent and related household expenses may be eligible to claim the credits. The claimant must:

- maintain a household that includes the dependent;
- pay for care for a dependent under age 13, or a disabled spouse or adult dependent; and
- pay for care in order to work or look for work.

What are qualifying expenses?

Qualifying expenses are amounts paid for the care of a dependent under age 13, or a disabled spouse or adult dependent, but do not include amounts paid to the claimant's spouse or another dependent.

Qualifying expenses may not exceed the claimant's earned income (for married couples filing joint returns, expenses may not exceed the earned income of the lesser earning spouse). Maximum allowable qualifying expenses are reduced by amounts paid through dependent care pre-tax accounts.

How are the credits calculated?

The *federal credit* equals 35 percent of up to $3,000 of qualifying expenses for one dependent ($6,000 of qualifying expenses for two or more dependents). The maximum federal credit is $1,050 for one dependent and $2,100 for two or more dependents. The federal credit percentage rate begins to phase down when income exceeds $15,000, with the credit percentage decreasing as income increases. Claimants with incomes over $43,000 qualify for the minimum federal credit rate of 20 percent of qualifying expenses, or up to $600 for one dependent and $1,200 for two or more dependents. For example, a claimant with $50,000 of income and $1,000 of expenses will qualify for a credit of $200 (20 percent of $1,000).

The *state credit* equals the lesser of the federal credit, or $720 for one dependent ($1,440 for two or more dependents). The state credit is calculated by reference to the federal credit for which the claimant is eligible, not the amount the claimant could have used to offset federal liability.

The state credit is subject to an income phaseout. (By contrast, the federal credit rate phases down to a minimum percentage but is never totally phased out.) In tax year 2017, the state phaseout begins when income exceeds $26,070, and the state credit is fully phased out when income exceeds $39,720. The income threshold for the phaseout is adjusted each year for inflation.

How do filers claim the credits?

Filers claim the credits when they file their federal and state income tax returns, by completing a separate schedule—Form 2441 for the federal credit and schedule M1CD for the state credit.

How many Minnesotans claim the credits?

In tax year 2014, 151,220 Minnesotans claimed the federal dependent care credit and 34,135 claimed the state credit. These claims represent 5.6 percent of all federal returns filed by Minnesotans and 1.2 percent of all state returns filed.

Because the federal credit is nonrefundable and can only be used to offset tax liability, most of the federal credits are claimed by middle- and upper-income filers who have income over $43,000 and qualify for the minimum credit amount.

Because the state credit is refundable and subject to an income-based phaseout (from $25,350 to $39,000 in tax year 2014, the year of the data), most of the state credits are claimed by low-income filers.

How much is paid out in credits?

In tax year 2014, Minnesotans claimed $72.8 million of federal dependent care credits. The average federal dependent care credit was $482.

In tax year 2014, Minnesotans claimed $14.1 million of state dependent care credits. The average state dependent care credit was $414.

How does Minnesota compare with other states?

Nationwide, 4.3 percent of all income tax returns claimed the federal dependent care credit, compared to 5.6 percent in Minnesota. South Dakota had the highest percentage of returns claiming the federal credit at 6.3 percent, and West Virginia had the lowest at 2.2 percent.

The average federal dependent care credit in 2014 was $546 nationwide and $482 in Minnesota. New York had the highest average credit at $595, and Montana had the lowest at $470. Minnesota's average credit amount may be lower than the national averages because state residents have above-average incomes, or because Minnesotans are more likely to receive child care assistance or use pre-tax dependent care accounts, reducing the amount of qualifying expenses.

For more information: Contact legislative analyst Nina Manzi at 651-296-5204. Also see the House Research information brief *The Minnesota and Federal Dependent Care Tax Credits*, February 2014.

HOUSE RESEARCH | **Short Subjects**

Nina Manzi and Joel Michael **Updated: January 2017**

The K-12 Education Deduction and Credit: An Overview

What is the K-12 deduction?

A state income tax deduction is allowed for K-12 education-related expenses. The deduction allows up to $2,500 to be deducted for each dependent in grades 7-12 and up to $1,625 for each dependent in grades K-6.

In tax year 2015 (fiscal year 2016) an estimated 207,000 returns claimed the deduction. The Department of Revenue estimates that the deduction will reduce income tax revenues by $18.4 million in tax year 2017 (fiscal year 2018).

What expenses qualify for the deduction?

Qualifying expenses for the deduction include payments for:

- tuition, including nonpublic school, after-school enrichment, academic summer camps, music lessons, and tutoring;
- textbooks, including instructional materials and supplies, musical instrument rental and purchase, and up to $200 of computer hardware and educational software; and
- transportation (paid to others for transporting children to school).

What is the K-12 education credit?

A state income tax credit is allowed for 75 percent of K-12 education-related expenses. The credit is for up to $1,000 for each child in grades K-12. For taxpayers with two or more qualifying children, the $1,000 per child maximum is a family limit; credits may be claimed up to the maximum without regard to the qualifying child or children for whom the expenses were paid. The credit begins to phase out when income exceeds $33,500 at a 25-percent rate for families with one child and at 50 percent for families with two or more children. In other words, each $4 dollar of income over the limit reduces the maximum credit by $1 for a family with one child or by $2 for a family with two or more children. For families claiming the credit for one or two children, it is fully phased out when income reaches $37,500. The phaseout extends for an additional $2,000 of income for each additional child claimed (i.e., to $39,500 for three children, $41,500 for four children, etc.).

In tax year 2014, 51,317 Minnesota returns claimed a total of $13.3 million in K-12 education credits. The average credit was $259. In tax year 2017 (fiscal year 2018), the Department of Revenue estimates that Minnesota will claim $13.1 million in K-12 education credits.

What expenses qualify for the credit?

The same expenses qualify for the credit as for the deduction, except payment of nonpublic school tuition does not qualify for the credit.

What are the tax benefits of the deduction and credit?

The deduction reduces an individual's taxable income. The tax benefit of the deduction depends on the taxpayer's marginal tax rate and the total amount deducted. Minnesota has four marginal tax rates: 5.35, 7.05, 7.85, and 9.85 percent. A taxpayer in the 5.35 percent bracket who claims a $2,500 deduction will pay $133.75 less in state income taxes (5.35% x $2,500). A taxpayer in the 9.85 percent bracket with the same deduction will pay $246.25 less in taxes. A taxpayer with too little income to have tax liability will not benefit from the deduction. In tax year 2017, a typical married couple with two dependents would need to have $28,900 of gross income before owing any state income tax.

The credit, in contrast, directly reduces tax liability and is fully refundable. If an individual's credit exceeds his or her liability, the excess is paid as a refund.

Can parents obtain loans to pay for educational services that qualify for the credit?

Parents may assign payment of the credit to participating financial institutions and tax-exempt foundations. In exchange, parents receive a loan that is paid directly to a third-party provider of educational services and programs. This allows very low-income families to purchase educational products and services in anticipation of receiving a credit when they file their tax return the following year, with the credit paid directly to the financial institution or foundation that accepted the assignment.

How do taxpayers claim the deduction and credit?

Taxpayers claim the deduction on form M-1M, income additions and subtractions. Taxpayers claiming the credit must complete form M1ED and attach it to their state tax return.

Has the constitutionality of Minnesota's credit and deduction been challenged in court?

The constitutionality of state income tax benefits for education expenses have regularly been challenged in court under the First Amendment and the education clauses of state constitutions.

The Minnesota dependent education deduction was upheld by the U.S. Supreme Court in a 1983 decision, *Mueller v. Allen*. An earlier Minnesota tax credit that applied to private school tuition was invalidated by the Minnesota Supreme Court in 1974.

Minnesota's current K-12 education credit has not been subject to legal challenge.

For more information: Contact legislative analyst Nina Manzi at 651-296-5204 or Joel Michael at joel.michael@house.mn. Also see the House Research publication *Income Tax Deductions and Credits for Public and Nonpublic Education in Minnesota*, September 2011.

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Minnesota Taxable Income

What is Minnesota taxable income?

Minnesota taxable income (MTI) is the tax base used to calculate Minnesota income tax liability. Minnesota taxable income equals federal taxable income (FTI) after Minnesota additions and subtractions.

What are Minnesota additions to taxable income?

Minnesota requires various *additions* to federal taxable income for tax year 2016. These items are subject to Minnesota tax, but not federal tax.

- **State income tax deduction.** Filers who claimed a federal itemized deduction for state income taxes paid must add that amount to Minnesota taxable income. Taxpayers making this addition are always allowed to claim at least the full standard deduction for the tax year.
- **Bond interest and mutual fund interest dividends paid by non-Minnesota state and local governments**
- **80 percent of the difference between federal and state allowances for bonus depreciation and section 179 expensing**
- **Net operating losses allowed at the federal level under a different schedule than at the state level**
- **Expenses relating to income not taxed by Minnesota**
- **Capital gain part of lump-sum distributions from qualified retirement plans**
- **Fines and penalties allowed as deductions from federal taxable income**
- **Domestic production activities income allowed as a deduction from federal taxable income**

What subtractions does Minnesota allow from taxable income?

Minnesota allows various *subtractions* from federal taxable income for tax year 2016. The estimated reductions in revenue shown below are taken from the Department of Revenue's *Tax Expenditure Budget for 2016-2019,* unless otherwise noted. Subtractions for tax year 2016 include:

- **State income tax refund.** The federal income tax allows an itemized deduction for state income taxes. Minnesota requires itemizers to add back the amount deducted and allows a subtraction for amounts refunded in order to avoid twice taxing the same income.
- **Subtractions required by federal law.** Federal law prohibits state taxation of these three types of income received by residents:
  - U.S. bond interest
  - Railroad retirement benefits
  - On-reservation earnings of enrolled tribal members
- **Military retirement pay**, including payments to survivors of military retirees ($22.6 million in fiscal year 2017).
- **K-12 dependent education expenses** ($18.1 million in fiscal year 2017). The deduction applies to school-related expenses, including tuition, textbooks, academic tutoring and camps, and instructional materials and supplies. The

maximum deduction is $1,625 for each child in grades K-6 and $2,500 for each child in grades 7-12.

- **Compensation for military active service performed by Minnesota residents, including training** ($12.4 million in fiscal year 2017).
- **50 percent of charitable contributions in excess of $500** ($9.3 million in fiscal year 2017). Allowed only for filers who do not claim federal itemized deductions—those who itemize have already deducted their charitable contributions in computing federal taxable income.
- **Compensation for Minnesota National Guard and reserve service** ($6.0 million in fiscal year 2017). Allowed for state active service, federally funded state active service (generally floods, other disasters, and airport security), and training pay.
- **Minnesota elderly/disabled exclusion** ($0.6 million in fiscal year 2017). Equals up to $12,000 for low-income elderly and disabled filers with low amounts of Social Security and nontaxable pensions.
- **Job Opportunity Building Zone (JOBZ) income** ($200,000 in fiscal year 2017). Allowed for net income from a qualified business in a JOBZ, for net income from renting property for use by a qualified business, and for gain from the sale of property used by a qualified business.
- **National service education awards** ($200,000 in fiscal year 2017). Allowed for scholarships received for AmeriCorps service.
- **Railroad maintenance expenses** ($200,000 in fiscal year 2017). Allowed for amounts claimed as a credit at the federal level (estimate derived from Department of Revenue processing report).
- **Foreign subnational income taxes** (less than $100,000 in fiscal year 2017). Allowed for taxes paid to a foreign governmental unit, to the extent the taxpayer did not claim the federal foreign tax credit for the subnational taxes (estimate derived from Department of Revenue processing report).
- **Gain on sale of farm property for insolvent taxpayers** (less than $50,000 in fiscal year 2017). This subtraction is allowed for taxpayers who use the proceeds of the sale of a farm to pay off a mortgage, contract for deed, or lien on the property.
- **Organ donation expenses** (less than $50,000 in fiscal year 2017). Allowed for up to $10,000 of expenses related to organ donation by the taxpayer or a dependent, including lost wages.
- **Bonus depreciation, section 179 expensing, income from the discharge of indebtedness, and net operating losses.** Allowed for amounts included in Minnesota taxable income, but not federal taxable income, in earlier tax years.

For more information: Contact legislative analyst Nina Manzi at 651-296-5204. Also see the House Research publications *Income Tax Terms: Deductions and Credits*, August 2014; and *Minnesota's Elderly Exclusion* (web only) on the income tax page of the House Research website: www.house.mn/hrd/.

HOUSE RESEARCH | Short Subjects

Nina Manzi and Joel Michael

Updated: January 2017

Section 179 Expensing under the Federal and Minnesota Income Tax

What is section 179 expensing?

Income tax laws generally require businesses to spread deductions of capital expenditures over the useful lives of the purchased property. Section 179 expensing, which takes its name from a section of the Internal Revenue Code (IRC), allows businesses to deduct the entire amount of the cost of qualifying property in the tax year the property is placed in service, rather than claiming depreciation deductions over a number of years. This allows the business to accelerate recognition of the expense from future tax years into the present year. The number of years over which property would otherwise be depreciated ranges from three to 15 years, depending on the type of property and its useful life as classified under the IRC.

What businesses can use section 179 and what property qualifies?

A business is allowed to use section 179 based on the amount of its qualifying capital expenditures in a taxable year. Purchases of most equipment and other personal property qualify, including many leasehold improvements by businesses renting their facilities. Improvements to land (real estate) typically do not qualify. Businesses making more than $2.5 million in expenditures in a tax year cannot use section 179. Other businesses may deduct up to $500,000 in expenditures (reduced dollar for dollar by amounts over $2 million). Congress has changed these dollar limits multiple times in recent years, often for temporary periods of time (see table below). In 2015, Congress made the $500,000 amount and the $2 million phaseout floor permanent, and indexed both for inflation beginning in 2016.

Summary of Federal Section 179 Legislation 2003-2016

Year	Maximum deduction	Phaseout	Indexing	Expiration
2003	$25,000, increased to $100,0000	$200,000, increased to $400,000	Yes for 2004 and 2005	2006
2004	No change	No change	Extended to 2006 and 2007	Extended to 2008
2006	No change	No change	Extended to 2008 and 2009	Extended to 2010
2007	Increased to $125,000	Increased to $500,000	Yes for 2008 to 2010	2011
2008 and 2009	Increased to $250,000	Increased to $800,000	No	2010
2010 to 2014	Increased to $500,000	Increased to $2 million	No	2014
2015	$500,000	$2 million	Yes	None
2016	$500,000	$2.01 million	Yes	None

In 2002 businesses could claim up to $24,000 in section 179 expensing, and this phased out for businesses with total expenses from $200,000 to $224,000. The $24,000 allowance was scheduled to increase to $25,000 in 2003, but Congress temporarily increased the allowance to $100,000. This was the first of a series of congressional actions that provided temporary increases in the maximum allowance and the "phaseout" limit; Congress also periodically indexed for inflation the temporarily increased amounts.

What are the section 179 expensing allowances under the Minnesota income tax?

In tax year 2017, a business may claim up to $25,000 in expensing on its Minnesota return. This amount is reduced dollar for dollar by the cost of property placed in service over $200,000, so that a business that places in service more than $225,000 in qualifying property is ineligible.

If a business claims more than $25,000 in section 179 expensing under federal law it must add 80 percent of the additional amount claimed to Minnesota taxable income on its Minnesota return. It is then allowed to subtract one-fifth of the amount added back in each of the next five tax years. In that way, the full amount claimed at the federal level is ultimately allowed at the state level—20 percent in tax year 2016 and 16 percent per year in tax years 2017 through 2021.

What are the federal and state allowances?

Under federal law, in 2016 the maximum deduction is $500,000 and begins to phase out at $2,010,000 in expenditures. Under state law, the maximum deduction is $25,000 and begins to phase out at $200,000.

Section 179 Allowances under Federal and Minnesota Law

	Federal		Minnesota	
Tax year	**Maximum deduction**	**Start of phaseout**	**Maximum deduction**	**Start of phaseout**
2002	$24,000	$200,000	$24,000	$200,000
2003	100,000	400,000	100,000	400,000
2004	102,000	410,000	102,000	410,000
2005	105,000	420,000	105,000	420,000
2006	108,000	430,000	25,000	200,000
2007	125,000	500,000	25,000	200,000
2008-2009	250,000	800,000	25,000	200,000
2010-2015	500,000	2,000,000	25,000	200,000
2016	500,000	2,010,000	25,000	200,000

What is the recent history of section 179 expensing in Minnesota?

Prior to 2006, Minnesota conformed to the federal allowances, allowing businesses to claim the same amount under the Minnesota tax as they could under the federal tax. Since then, the legislature has elected not to conform to the higher federal allowances. From 2006 to the present, Minnesota allowed the $25,000 section 179 expensing amount in effect before tax year 2003, when the federal government first began allowing increased section 179 expensing.

For more information: Contact legislative analyst Nina Manzi at 651-296-5204 or Joel Michael at 651-296-5057.

Joel Michael and Nina Manzi Updated: January 2017

Minnesota Angel Investment Credit

What is the angel investment credit?

The Minnesota Small Business Investment Credit (commonly referred to as the angel investment credit) provides qualified investors in certified small businesses with a refundable income tax credit equal to 25 percent of their investments up to a maximum of $125,000 ($250,000 for married joint filers). The maximum credits for investments in a business cannot exceed $1 million. The credit took effect for tax year 2010 and expires for investments made after tax year 2017.

Three key sets of requirements apply under the credit:

- Rules that govern which investors qualify to make investments
- Rules specifying the types of businesses that qualify to receive investments
- Limits on which investments qualify

What investors qualify for the credit?

The angel credit allows two different types of investors to qualify for the credit:

- **Individual investors** qualify either by being accredited investors under Securities and Exchange Commission Regulation D or by certifying that they will only invest in an offering that is exempt from registration under state law. Accredited investors must have net worth of at least $1 million (excluding the value of their homes) or annual income of at least $200,000 ($300,000 for married couples). Beginning in tax year 2015, individuals who are officers of or who in combination with their family members own or control 20 percent or more of the business cannot claim the credit.
- **Qualified funds** are pass-through tax entities that invest in qualifying small businesses and have three or more investors who each meet the requirements for individual investors. These funds pass through the credit to their owners, who claim it on their tax returns.

Investors must apply to and be certified by the Department of Employment and Economic Development (DEED) before making the investment for which they are claiming the credit. However, individuals who are not accredited investors but who qualify because the offering is a small corporation that is exempt from registration may apply up to 30 days after making the investment.

What small businesses qualify under the credit?

The credit only applies to investments in a small business that DEED certifies:

- Has its headquarters and 51 percent of its employees and payroll in Minnesota;
- Is engaged in a specified field of business involving proprietary technology or product;
- Has fewer than 25 employees;
- Pays most of its employees wages equal to at least 175 percent of the federal poverty guideline for a family of four;
- Has not been in operation for more than ten years (20 years for businesses developing drugs or medical devices that require FDA approval); and
- Has not received more than $2 million in private equity investment.

What types of investments qualify for the credit?

To qualify for the credit, an investment must:

- Receive DEED credit certification from the annual credit cap;
- Be made in cash;
- Satisfy minimums of either $10,000 (individuals) or $30,000 (fund); and
- Receive in return an equity-type interest (e.g., common stock, partnership interest, preferred stock, or debt with a mandatory conversion to equity).

How much will the credit reduce state tax revenues?

The law imposes an annual dollar limit or cap on the total amount of credits. Some of these credits may be paid as refunds (rather than reducing tax liability), since the credit is refundable. The total limit over the life of the credit is $91.9 million:

- $11 million for tax year 2010
- $12 million per year for tax years 2011 through 2013, except the 2013 amount is reduced by $100,000 to fund a program evaluation
- $15 million per year for tax years 2014 through 2016
- $10 million for tax year 2017

DEED administers the limits by certifying dollar amounts of credits to applicant investors on a first-come, first-served basis.

Has the demand for credits exceeded the limits?

Applications for tax years 2011 through 2016 used up the full allocations and the amount carried over before the end of the year, requiring DEED to reject applicants in all three years.

How many businesses and individuals benefited from the credits?

The table shows the number of investors (including those investing in funds) and businesses for 2010 through 2015.

Calendar year:	2010	2011	2012	2013	2014	2015
Number of businesses	67	113	117	128	110	114
Number in metro area	62	102	109	122	102	101
Percentage of $ in metro area	94%	80%	95%	95%	86%	92%
Number of investors	290	758	656	651	812	817

Beginning in tax year 2015 half the allocation is reserved for investments in Greater Minnesota and in women- and minority-owned businesses; any reserved amounts not allocated by September 30 become available for other qualifying investments. Of the reserved amount, $4.35 million in tax year 2015 and $2.4 million in tax year 2016 was used for the specified investments by September 30, and the balance was allocated to other investments.

Do clawback provisions apply?

The law provides for revocation and repayment of the credit if the small business does not maintain at least 51 percent of its employees and payroll in Minnesota for five years starting the year after the investment was made. The required repayment declines by 20 percentage points per year (100 percent in year one, 80 percent in year two, etc.). The business, not the investors, must make the repayment.
In addition, investors or funds that do not maintain their investment in the small business for at least three years must repay the credit.

What reporting requirements apply?

Investors, funds, and small businesses must annually report to DEED on their compliance with the law. DEED annually reports to the legislature.

For more information: See "Angel Tax Credit" under the "Financing a Business" area on the DEED website: http://www.positivelyminnesota.com.

Nina Manzi

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Minnesota's Individual Income Tax

How much are income tax revenues?

Minnesota's income tax revenues equaled $10.7 billion in fiscal year 2016, about 47 percent of state tax collections and 41 percent of all state revenues.

What is the tax base used to calculate Minnesota's income tax?

Minnesota's income tax applies to a base of Minnesota taxable income (MTI). The starting point for calculating MTI is federal taxable income (FTI), which is the income measure used in determining federal income tax liability. In calculating MTI, taxpayers are required to add certain types of income to FTI and allowed to subtract other kinds of income. Some of the subtractions are required under federal law. For more detail on these adjustments, see the House Research publication *Minnesota Taxable Income,* January 2017.

What are the income tax rates and brackets?

Minnesota's income tax is a graduated tax, with four rates: 5.35 percent, 7.05 percent, 7.85 percent, and 9.85 percent. The rates are applied to income brackets that vary by filing status. Married couples filing joint returns are allowed the most generous (widest) brackets, followed by head of household filers (single parents maintaining a household), unmarried single filers, and married separate filers.

The table shows the income tax brackets in effect for each rate in tax year 2017 (brackets for married taxpayers, filing separately, are half the width of the married joint brackets):

	Married Joint	**Single**	**Head of Household**
5.35%	$0 to $37,110	$0 to $25,390	$0 to $31,260
7.05%	$37,711 to $147,450	$25,391 to $83,400	$31,261 to $125,600
7.85%	$147,451 to $261,510	$83,401 to $156,910	$125,601 to $209,210
9.85%	Over $261,510	Over $156,910	Over $209,210

A married couple filing a joint return owes income tax equal to 5.35 percent of their first $37,110 of taxable income, 7.05 percent of income from $37,111 to $147,450, 7.85 percent of taxable income from $147,451 to $261,510, and 9.85 percent of taxable income over $261,510. The income tax brackets are adjusted each year for inflation.

What income tax credits does Minnesota allow?

Minnesota allows taxpayers to claim several credits against tax liability. Credits that may be used only to reduce liability, called nonrefundable credits, include the following (and the amount claimed most recently):

- Credit for taxes paid to other states ($257 million in tax year 2014)
- Marriage credit ($87.3 million in fiscal year 2017)
- Credit for past military service ($400,000 in fiscal year 2017)
- Long-term care insurance credit ($9.0 million in fiscal year 2017)
- Research and development credit ($18.5 million in fiscal year 2017)

- Employer transit pass credit (less than $50,000 in fiscal year 2017)

In addition, in tax year 2017 Minnesota allows nine refundable credits, which are paid as refunds to taxpayers even if the credit amount is greater than their income tax liability (and the amount refunded most recently):

- Working family (earned income) credit ($259.5 million in fiscal year 2017)
- Dependent care credit ($13.5 million in fiscal year 2017)
- K-12 education credit ($13.1 million in fiscal year 2017)
- Military combat zone credit ($0.8 million in fiscal year 2017)
- Stillbirth credit ($0.8 million in fiscal year 2017)
- Job opportunity building zone (JOBZ) credit (less than $50,000 in fiscal year 2017)
- Enterprise zone credit ($300,000 in fiscal year 2017)
- Angel investment credit ($15.0 million in fiscal year 2017)
- Historic structure rehabilitation credit ($49.6 million in fiscal year 2017)
    - The historic credit is available to both corporate and individual taxpayers; to date most claims have come from corporate taxpayers.

Minnesota also allows a refundable credit for bovine tuberculosis testing expenses. Since the federal government currently considers Minnesota to be free of bovine tuberculosis no testing is required and the credit is not in effect.

Credit amounts are from the Minnesota Department of Revenue's *Tax Expenditure Budget, Fiscal Years 2016-2019,* and income tax return processing data.

For more information: Contact legislative analyst Nina Manzi at 651-296-5204 or Joel Michael at joel.michael@house.mn. Also see the House Research publications, *Minnesota Taxable Income*, January 2017; *The Minnesota Income Tax Marriage Credit*, November 2013; *The Minnesota and Federal Dependent Care Tax Credits*, February 2014; *The Federal Earned Income Credit and the Minnesota Working Family Credit,* March 2013; *Income Tax Deductions and Credits for Public and Nonpublic Education in Minnesota*, September 2011; and *Income Tax Terms: Deductions and Credits*, July 2015.

Mary Mullen

Updated: January 2017

The Tribal Law and Order Act and Minnesota

The Tribal Law and Order Act of 2010 allows reservations in Public Law 280 states, where criminal jurisdiction is handled by the state and county prosecutors, to apply for concurrent federal jurisdiction. The purpose of the law is to increase the resources available to tribes for the investigation and prosecution of crimes in Indian country.

How does the Tribal Law and Order Act (TLOA) affect Minnesota?

The United State Department of Justice has recently accepted requests from two Minnesota tribes providing concurrent federal jurisdiction over crimes on those reservations.

- The White Earth Band was granted concurrent jurisdiction, which took effect on June 1, 2013.
- The Mille Lacs Band of Ojibwe was granted concurrent jurisdiction, which took effect January 1, 2017.

How does the law work?

The TLOA allows tribes to request concurrent federal jurisdiction over crimes on reservations, and once that request has been approved, the federal prosecutor can investigate and prosecute crimes on the reservation in the same way those crimes are prosecuted on reservations where Public Law 280 does not apply. (See more about Public Law 280 below.)

On the White Earth Reservation and the Mille Lacs Band Reservation, the Major Crimes Act and the General Crimes Act will apply. The Major Crimes Act allows for federal prosecution of the following crimes: murder, manslaughter, rape, assault with intent to kill, arson, burglary, larceny, kidnapping, incest, assault with a dangerous weapon, assault resulting in serious bodily injury, assault with intent to commit rape, robbery, and felonious sexual molestation of a minor (18 U.S.C. § 1153). The General Crimes Act includes the general federal criminal laws, including many of the same crimes included in the Major Crimes Act (18 U.S.C. § 1152).

After a tribe has had concurrent federal jurisdiction granted, the state's criminal jurisdiction will not change, but the federal government will also have jurisdiction over the crimes covered by the Major Crimes Act and the General Crimes Act. It is important to note that the federal government always has jurisdiction over certain crimes that occur anywhere in the United States, including Indian country, pursuant to federal laws of general applicability such as the Controlled Substances Act.

Does the TLOA change the state's criminal jurisdiction?

A federal law passed in 1953, commonly called Public Law 280, gave Minnesota criminal jurisdiction over all the reservations located in the state, except the Red Lake Reservation. In 1973, Minnesota approved the retrocession of the Bois Forte Reservation in northeastern Minnesota from Public Law 280. Other than the Red

Lake and Bois Forte (Nett Lake) Reservations, all of the other federally recognized tribes (http://mn.gov/indianaffairs/tribes.html) in Minnesota are subject to state criminal jurisdiction (18 U.S.C. § 1162).

The TLOA does not change the state's criminal jurisdiction. Tribal members are still subject to state and tribal criminal laws. The difference is that on the White Earth Reservation and on the Mille Lacs Reservation, members of federally recognized tribes may be subject to federal prosecution for certain crimes.

Does the TLOA change the tribe's criminal jurisdiction?

The criminal jurisdiction the tribe has over members of federally recognized American Indian Tribes did not change under the TLOA. Those tribes still have the ability to arrest and prosecute individuals to the extent allowed by the Indian Civil Rights Act of 1968, which allows tribes to impose a fine up to $5,000 and up to one year in jail. However, the TLOA has now created an opportunity for tribes to implement enhanced sentencing powers.

The TLOA created the potential to enhance criminal sentencing for tribal courts when the courts have met certain requirements (25 U.S.C. § 1302(b)). Under TLOA, a tribal court must:

- guarantee the right to defense counsel for indigent clients;
- provide a judge who is licensed to practice law;
- be a court of record;
- make the tribal criminal code be publicly available; and
- have rules of evidence and rules of criminal procedure (25 U.S.C. § 1302).

Currently, no Minnesota tribes have the enhanced criminal sentencing authority provided for under the TLOA. The National Congress of American Indians has a list of tribes that have begun using enhanced sentencing or who are close to implementing programs in other states (http://tloa.ncai.org/tribesexercisingTLOA.cfm).

The TLOA does not change the tribe's criminal jurisdiction over non-Indians. Tribes have very limited jurisdiction over non-Indians, however the Violence Against Women's Act (VAWA) provides some exceptions. (See the House Research publication *American Indians, Indian Tribes, and State Government,* January 2017, for more information.)

How is the TLOA funded?

The TLOA provided increased federal funding for a number of programs administered by the Department of Justice and other federal agencies, as well as funding grants for criminal justice related programs for American Indian Tribes.

For more information: Contact legislative analyst Mary Mullen at 651-296-9253. Also see the House Research publication *American Indians, Indian Tribes, and State Government,* January 2017.

Nina Manzi

Updated: February 2017

The Federal Earned Income Tax Credit and Minnesota Working Family Credit: An Overview

What are the credits?

The federal earned income tax credit (EITC) and Minnesota working family credit (WFC) equal a percentage of the earnings of low-income individuals. The credits are refundable; if the credit exceeds a filer's tax liability, the rest is paid as a refund. Since these credits increase their recipients' earnings, they act as wage supplements and are thought to provide a work incentive.

Who is eligible for the credits?

Anyone with wages or self-employment income may be eligible to claim the EITC and the WFC. In tax year 2017, individuals with more than $3,450 in interest income, dividends, rental and royalty income, and capital gain income do not qualify.

How are the credits calculated?

The credits equal a percentage of earned income, up to a maximum credit amount, and are phased out when the claimant's total income exceeds a threshold. The maximum credit amounts and income levels at which the credits are phased out vary depending on the number of children in the household and whether the claimants are married. Both the maximum credit and the phaseout threshold are adjusted annually for inflation. In tax year 2017, the maximum credits, phaseout threshold, and income level at which the credits are no longer allowed are as follows:

	Maximum credit		**Phaseout threshold**		**Income at which credit fully phased out**	
	EITC	WFC	EITC	WFC	EITC	WFC
Unmarried claimants						
No children	$510	$134	$8,340	$8,360	$15,010	$15,005
1 child	$3,400	$1,070	$18,340	$21,800	$39,617	$39,568
2 children	$5,616	$2,064	$18,340	$25,850	$45,007	$44,922
3 or more children	$6,318	$2,064	$18,340	$25,850	$48,340	$44,922
Married claimants						
No children	$510	$134	$13,930	$13,950	$20,600	$20,595
1 child	$3,400	$1,070	$23,930	$27,390	$45,207	$45,158
2 children	$5,616	$2,064	$23,930	$31,440	$50,597	$50,512
3 or more children	$6,318	$2,064	$23,930	$31,440	$53,930	$50,512

How do filers claim the credits?

Filers claim the credits when they file their federal and state income tax returns, by completing a schedule or worksheet.

How many Minnesotans claim the credits?

In tax year 2014, 357,410 Minnesota returns claimed the EITC and 345,858 claimed the WFC. These claims represent 13.3 percent of all federal returns filed by Minnesotans and 12.3 percent of all state returns filed by Minnesota residents. The number of EITC claims exceeds the number of WFC claims mostly because in 2014, the higher EITC rate for families with three or more children resulted in the

EITC for large families extending to higher incomes than did the WFC, which did not have a higher rate for families with three or more children.

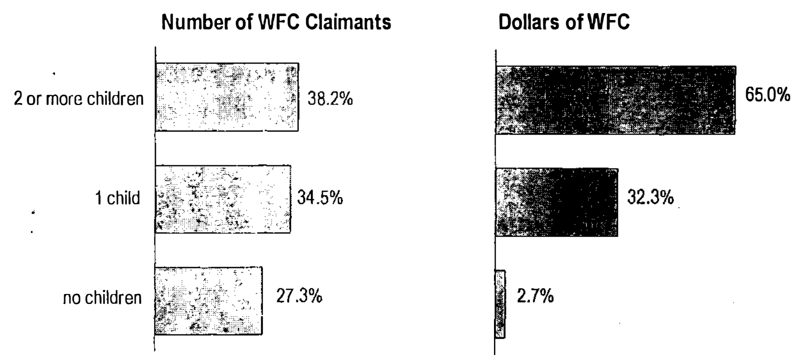
How much is paid out in credits?

In tax year 2014, Minnesotans claimed $761 million in EITC, of which $94 million offset tax liability, and the remaining $667 million was paid as a refund. The average EITC claimed by Minnesotans was $2,130.

Minnesota returns claimed $256 million in WFC, of which $42.5 million offset tax liability, and the remaining $213.6 million was paid as a refund. The average WFC was $741.

How are the credits distributed among different types of families?

Seventy-three percent of all working family credits went to families with one or more children. These families received about 97 percent of the total amount of credits paid in 2014. Individuals without children filed 27.3 percent of returns claiming credits, but received only 2.7 percent of the total amount of credits. Claimants with children received most of the total amount of credits because these families qualify for a higher maximum credit than do claimants without children. The distribution of earned income tax credits is similar.



How are the credits distributed geographically?

In 2014, just over half (51 percent) of the returns claiming credits were in the Twin Cities metropolitan area and just under half (49 percent) in Greater Minnesota; 20 percent of returns in Wadena County claimed credits, compared with only 7 percent in Carver County. The highest average credit went to Norman County claimants, at $852, and the lowest to Winona County claimants, at $642.

How does Minnesota compare with other states?

Nationwide, 19.1 percent of all income tax returns claimed the EITC, compared to 13.3 percent in Minnesota. The average EITC nationwide in 2014 was $2,399; it was $2,130 in Minnesota. Minnesota's number of recipients and credit amounts are lower than the national averages because state residents have above-average incomes.

In tax year 2015, 25 other states and the District of Columbia provided a state version of the EITC. In most cases the state credit equals a percentage of the federal EITC.

For more information: Contact legislative analyst Nina Manzi at 651-296-5204. Also see the House Research information brief *The Federal Earned Income Tax Credit and the Minnesota Working Family Credit*, December 2016.

Nina Manzi and Sean Williams March 2017

Major State Aids and Taxes: An Overview of the 2013 Update

This provides a brief overview of the report *Major State Aids and Taxes: A Comparative Analysis, 2013 Update*, which highlights major aids provided to the local governments and people in Minnesota and lists the major taxes collected. The per capita amounts were calculated using 2012 population. Some aids are presented on a different basis in other settings (e.g., per pupil for education aid); however, in the report they are presented on a per capita basis to allow comparison of different aids.

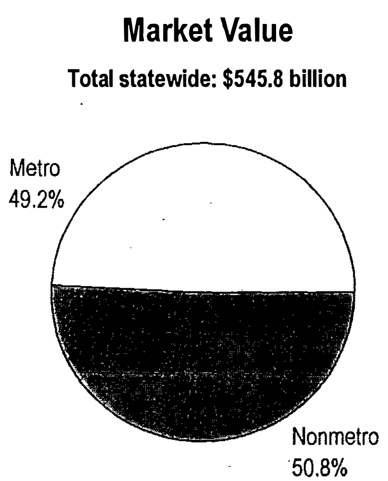
STATE AIDS

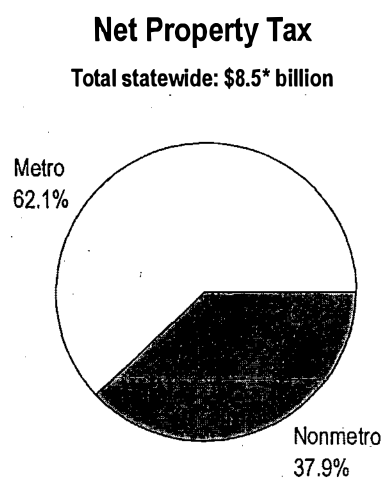
Program	Year	Amount (millions)	Per Capita
Education aid *Aid paid to school districts for all K-12 educational expenses*	2012/2013 (school year)	**$7,138.2 State** $4,006.0 Metro $3,132.2 Nonmetro	**$1,318 State** $1,358 Metro $1,270 Nonmetro
Human services aid *State's share of human services aid for various income and medical assistance programs*	2013	**$5,154.1 State** $2,896.4 Metro $2,257.7 Nonmetro	**$951 State** $982 Metro $915 Nonmetro
Highway aid *Distributed to counties, cities, and towns for highway purposes*	2013	**$721.3 State** $237.1 Metro $484.2 Nonmetro	**$133 State** $80 Metro $196 Nonmetro
Local government aid *Provides property tax relief by providing general purpose financial support to cities*	2013	**$427.5 State** $133.6 Metro $293.9 Nonmetro	**$79 State** $45 Metro $119 Nonmetro
Disparity reduction aid *Provides aid to jurisdictions (counties, towns, and school districts) that had inordinately high tax rates in 1988*	2013	**$18.3 State** $1.4 Metro $16.9 Nonmetro	**$3 State** – Metro $7 Nonmetro
County program aid *County general purpose aids: includes former homestead and agricultural credit, county criminal justice aid, family preservation aid, and attached machinery aid*	2013	**$165.6 State** $77.0 Metro $88.6 Nonmetro	**$31 State** $26 Metro $36 Nonmetro
Community corrections funding *Aid that provides a portion of counties' costs for community correctional services*	2013	**$84.5 State** $40.9 Metro $43.6 Nonmetro	**$16 State** $14 Metro $18 Nonmetro
Property tax refund (excludes targeting) *Reimburses homeowners and renters for a portion of property taxes if those taxes exceed a household income threshold*	2012 (filed in 2013)	**$450.9 State** $309.2 Metro $141.7 Nonmetro	**$83 State** $104 Metro $58 Nonmetro
Targeting *Additional homeowner property tax refund if property taxes increased a certain percentage threshold over previous year (no income limits)*	2012 (filed in 2013)	**$0.7 State** $0.4 Metro $0.3 Nonmetro	**$0 State** – Metro – Nonmetro

MAJOR TAXES

	Year	Amount (millions)	Per capita
Individual income tax *Imposed on income of state residents and income derived from state sources of nonresidents*	2012 (filed in 2013)	**$8,360.7 Total** **$7,882.6 Residents** $5,242.9 Metro $2,639.8 Nonmetro	**$1,455 State** $1,777 Metro $1,070 Nonmetro
Sales and use tax *Imposed on gross receipts of people who sell, lease, or rent tangible personal property at retail at a rate of 6.5 percent (does not include local sales taxes)*	2013	**$5,247.4 (After refunds)** **$4,381.9 Residents** $2,844.1 Metro $1,537.7 Nonmetro	**$809 State** $964 Metro $623 Nonmetro
Motor vehicle sales tax *Imposed on new and used motor vehicles at the time of sale at the same rate of state sales tax*	2013	**$621.9 State** $326.2 Metro $295.7 Nonmetro	**$115 State** $111 Metro $120 Nonmetro
Motor vehicle registration tax *Imposed annually on vehicles licensed in the state*	2013	**$636.0 State** $344.4 Metro $291.7 Nonmetro	**$117 State** $117 Metro $118 Nonmetro
Motor vehicle fuels tax (gas tax) *Imposed on gasoline, diesel fuel, and other motor fuels used by vehicles and on aviation fuels*	2013	**$869.1 State** $409.8 Metro $459.3 Nonmetro	**$160 State** $139 Metro $186 Nonmetro
Corporate franchise (income) tax *Imposed at a rate of 9.8 percent on the net income of corporations (or alternative minimum tax)*	2013	**$1,057.1 State** $744.6 Metro $312.5 Nonmetro	**$195 State** $252 Metro $127 Nonmetro
State general property tax *Imposed on commercial/industrial/public utility property and seasonal recreational property*	2013	**$839.9 State** $533.8 Metro $306.2 Nonmetro	**$155 State** $181 Metro $124 Nonmetro

PROPERTY TAX DATA, PAYABLE 2013





* Includes state general property tax

For more information: Contact legislative analyst Nina Manzi at 651-296-5204. See *Major State Aids and Taxes: Comparative Analysis, 2013 Update* (March 2017) for further details about each aid program and tax and data by county and economic development region.

The Research Department of the Minnesota House of Representatives is a nonpartisan office providing legislative, legal, and information services to the entire House.

Joel Michael and Nina Manzi Updated: April 2017

Revenue Recapture Program

Revenue recapture allows state and some local governments to collect debts by intercepting tax refunds

Revenue recapture authorizes the Department of Revenue (DOR) to intercept or offset part or all of a state tax refund or other payment to collect a debt that the taxpayer owes to a government agency or other authorized creditor. The following agencies may use the Revenue Recapture Program:

- State agencies
- University of Minnesota
- Minnesota district courts
- Counties
- Cities, including for public library debts
- Governmentally owned hospitals and Regions Hospital
- Agencies responsible for child support enforcement
- Agencies that administer low-income housing programs
- Licensed ambulance services

A variety of debts qualify for collection using recapture

The debt (minimum amount of $25) must be owed to or collectable by one of the qualifying governmental agencies. The debtor must be an individual; the law does not apply to corporations. The creditor does not need to obtain a court judgment or order to enforce the debt. Qualifying debts include the following:

- Contractual or statutory obligations
- Criminal fines and fines for petty misdemeanors
- Court-ordered restitution for a crime
- Child support obligations
- Overpayment of public assistance
- Unpaid MinnesotaCare insurance premiums

Obligations of low-income individuals (incomes between $12,560 and $23,730 for care provided in 2015, depending upon family size) to repay debts for medical care, including hospitalization, cannot be recaptured. Debts barred by the statute of limitations also cannot be recaptured.

Tax refunds are applied first to unpaid taxes, interest, and penalties before revenue recapture takes effect to offset qualifying debts.

Some types of refunds are subject to recapture

Revenue recapture applies to the following:

- Individual income tax refunds
- Property tax refunds
- Sustainable forest incentive payments
- Lottery prizes

The claimant must notify debtor about revenue recapture

Under revenue recapture, a claimant (creditor) agency submits the claim (debt) to DOR for offset. Within five days after doing so, it must notify the debtor-taxpayer in writing of the debt(s) that will be subject to revenue recapture. The taxpayer then has 45 days to request a hearing, which the claimant agency initiates; the hearing is conducted as a contested case under the Administrative Procedures Act.

Child support has first priority for collection

When more than one debt is submitted, the debts are applied in the following order of priority:

- Child support obligations
- Restitution obligations
- Claims submitted for a hospital or ambulance service
- Other debts based on the order in which DOR received the claims

DOR accounts receivable (e.g., unpaid taxes, interest, and penalties) are offset before claims under revenue recapture.

A $15 administrative fee applies

A fee of $15 per claim is first deducted from the refund, and the claimant agency receives the balance of the refund or the claim amount, whichever is less. Of this $15, $4 is set aside in a dedicated, revolving fund to pay DOR's cost of operating the program; the rest goes to the state's general fund.

Over $68 million was recaptured in 2015

The table to the right shows the number of revenue recapture offsets and amount of refunds offset for calendar years 2011 to 2015.

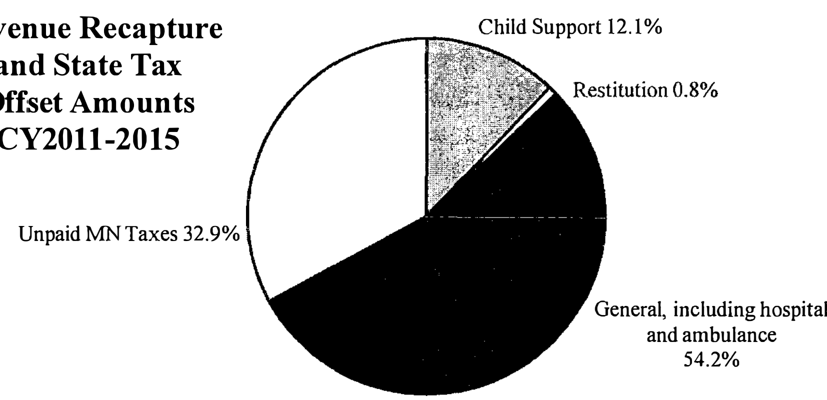
The graph below shows the percentage of revenue recapture amounts and tax debts offset for calendar years 2011 to 2015 by four of the major types of debts for which the law sets priorities.

Revenue Recapture Amounts CY2011-2015

	Number of Offsets	**Amount of Recapture**
2011	193,629	$63,231,794
2012	231,085	$71,699,789
2013	228,262	$67,983,144
2014	238,154	$68,557,048
2015	225,722	$68,203,645

Data exclude offsets to satisfy federal debts and taxes, and for unpaid state taxes. In 2015, $15,649,065 in federal debt and taxes was offset, and there were 111,617 offsets for $35,220,923 in unpaid state taxes.
Source: DOR

Revenue Recapture and State Tax Offset Amounts CY2011-2015



For more information: See www.revenue.state.mn.us/collections/Pages/Revenue_Recapture.aspx for more information, or contact the Department of Revenue at 651-556-3037; or email at revenue.recapture@state.mn.us.

HOUSE RESEARCH | Short Subjects

Danyell Punelli Updated: June 2017

Minnesota Family Investment Program

The Minnesota Family Investment Program (MFIP) is a jointly funded, federal-state program that provides income assistance to eligible low-income families. MFIP is the state's response to the 1996 federal welfare reform law, which replaced the Aid to Families with Dependent Children (AFDC) program with Temporary Assistance for Needy Families (TANF), a block grant program to states.

Who is eligible for MFIP?

A family must have income and assets below the program's limits. The income limit increases with family size. Families do not exit MFIP until their income reaches 115 percent of the federal poverty guidelines (FPG). The 2017 FPG for a family of three is $20,160 (115 percent of FPG for a family of three equals $23,184). Assets are limited to $10,000 for applicants and participants, excluding certain items. In addition, families must meet the following eligibility requirements:

- have a minor child or pregnant woman in the home
- be residents of Minnesota
- be a U.S. citizen, qualified noncitizen, or noncitizen otherwise lawfully residing in the United States
- assign rights to child support to the state
- have received fewer than 60 months assistance total from any state
- satisfy any other eligibility requirements of the program

Families are subject to a *lifetime limit of 60 months of assistance*. Some families may be eligible for assistance extensions past the 60-month limit if they meet specific criteria for one of the following extension categories: ill or incapacitated, hard-to-employ, and employed participants.

MFIP participants may be eligible for other benefits such as child care assistance and Medical Assistance.

How much are monthly benefits?

The MFIP grant is based on a transitional standard that increases with family size. For example, a family of three's standard benefit in 2017 is $991 per month; a family of four's monthly standard is $1,207. For families without earnings, the monthly grant equals the transitional standard. For families with earnings, the monthly grant equals the "family wage level" (110 percent of the transitional standard minus the family's net earned income). The MFIP grant is composed of a cash portion and a food portion, both of which are issued by counties in electronic debit card form.

What are the work requirements?

MFIP caregivers (i.e., persons who live with and provide care and support to minor children) are required to spend a specified number of hours every week engaged in work or work activities. Examples of acceptable activities include job search activities, unsubsidized employment, and on-the-job training.

Employment plans must be tailored to recognize the special circumstances of MFIP participants who meet certain criteria, such as being over age 60, being ill or incapacitated, caring for a disabled child, or being the victim of family violence.

Participants who are interested in participating in postsecondary education as part of their employment plan must discuss their education plans with their job counselor. Job counselors must work with participants to evaluate options.

Special requirements exist for *caregivers under age 20*. In most cases, education is the first priority for teen MFIP participants.

How do sanctions work?

MFIP participants who do not meet the program requirements may be sanctioned through reduction of their monthly grant. Sanctions last until one month after a participant comes into compliance. An MFIP case must be closed after the seventh occurrence of noncompliance.

What are MFIP's funding streams and expenditures?

MFIP is funded with a combination of federal funds and state appropriations. Minnesota received approximately $268 million annually in TANF block grant funding in federal fiscal years 1998 to 2017 (this amount is subject to federal reauthorization). In addition, federal law includes a maintenance of effort (MOE) provision that requires a state to spend 75 percent to 80 percent of the amount it spent in 1994 under its old AFDC and related programs to assist needy families. In fiscal year 2017 the state's required MOE amount was $176.7 million per year. The MOE requirement is met through state spending on programs such as MFIP, child care assistance, and the working family tax credit. TANF is used for MFIP and a variety of other programs that assist low-income families.

According to the Department of Human Services, for state fiscal year 2016, total expenditures were $102.3 million for the cash portion and $135.8 million for the food portion of the MFIP grants. In terms of funding, $56.6 million was financed with federal TANF funds, $135.2 million was from federal Supplemental Nutrition Assistance Program funds, and $45.7 million was from state appropriations.

How many families receive MFIP?

In fiscal year 2016, in an average month 32,776 families and a total of 91,159 participants were receiving MFIP assistance. In fiscal year 2017, in an average month an estimated 33,789 families and a total of 94,966 participants were receiving MFIP assistance.

For more information: See the House Research publication *Minnesota Family Assistance*, February 2016, and the following Short Subjects: *Noncitizens on MFIP,* December 2014, and *MFIP Cases Reaching the 60-Month Time Limit,* August 2013.

Nina Manzi

Updated: June 2017

The Minnesota and Federal Dependent Care Tax Credits: An Overview

What are the credits?

The Minnesota and federal dependent care credits partially offset the cost of child care for certain workers. The maximum Minnesota and federal credit is $1,050 for one child and $2,100 for two or more children.

Are the credits refundable?

The Minnesota credit is fully refundable. If an individual qualifies for a credit that is greater than his or her tax liability, the excess is paid as a refund. The federal credit is not refundable and may only be used to offset federal income tax liability.

Who is eligible for the credits?

Anyone who incurs expenses related to the care of a dependent and related household expenses may be eligible to claim the credits. The claimant must:

- maintain a household that includes the dependent;
- pay for care for a dependent under age 13, or a disabled spouse or adult dependent; and
- pay for care in order to work or look for work.

What are qualifying expenses?

Qualifying expenses are amounts paid for the care of a dependent under age 13, or a disabled spouse or adult dependent, but do not include amounts paid to the claimant's spouse or another dependent.

Qualifying expenses may not exceed the claimant's earned income (for married couples filing joint returns, expenses may not exceed the earned income of the lesser earning spouse). Maximum allowable qualifying expenses are reduced by amounts paid through dependent care pre-tax accounts.

How are the credits calculated?

The *federal credit* equals 35 percent of up to $3,000 of qualifying expenses for one dependent ($6,000 of qualifying expenses for two or more dependents). The maximum federal credit is $1,050 for one dependent and $2,100 for two or more dependents. The federal credit percentage rate begins to phase down when income exceeds $15,000, with the credit percentage decreasing as income increases. Claimants with incomes over $43,000 qualify for the minimum federal credit rate of 20 percent of qualifying expenses, or up to $600 for one dependent and $1,200 for two or more dependents. For example, a claimant with $50,000 of income and $1,000 of expenses will qualify for a credit of $200 (20 percent of $1,000).

The *state credit* equals the federal credit for which the claimant is eligible, subject to an income-based phaseout.

(By contrast, the federal credit rate phases down to a minimum percentage but is never totally phased out.) In tax year 2017, the phaseout begins when adjusted gross income exceeds $50,000 and the state credit is fully phased out when income reaches $62,000 for claimants with one dependent, and $74,000 for claimants with two or more dependents. The income threshold for the phaseout is adjusted each year for inflation.

How do filers claim the credits?

Filers claim the credits when they file their federal and state income tax returns, by completing a separate schedule—Form 2441 for the federal credit and schedule M1CD for the state credit.

How many Minnesotans claim the credits?

In tax year 2014, 151,220 Minnesotans claimed the federal dependent care credit and 34,135 claimed the state credit. These claims represent 5.6 percent of all federal returns filed by Minnesotans and 1.2 percent of all state returns filed.

How much is paid out in credits?

In tax year 2014, Minnesotans claimed $72.8 million of federal dependent care credits. The average federal dependent care credit was $482.

In tax year 2014, Minnesotans claimed $14.1 million of state dependent care credits. The average state dependent care credit was $414.

What are recent changes to the state credit?

The 2017 Legislature:

- tied the state credit directly to the federal credit;
- changed the income measure used for the credit phaseout from household income to adjusted gross income; and
- increased the phaseout floor to $50,000, with the credit extending to $62,000 for those with one dependent and $74,000 for those with two or more dependents.

The Department of Revenue estimates that the changes will increase credits by $16.9 million in tax year 2017, and that 42,800 individuals will receive larger credits of $342 on average. Additionally, 16,900 individuals who were not previously eligible for the credit would become eligible.

How does Minnesota compare with other states?

Nationwide, 4.3 percent of all income tax returns claimed the federal dependent care credit, compared to 5.6 percent in Minnesota. South Dakota had the highest percentage of returns claiming the federal credit at 6.3 percent, and West Virginia had the lowest at 2.2 percent.

The average federal dependent care credit in 2014 was $546 nationwide and $482 in Minnesota. New York had the highest average credit at $595, and Montana had the lowest at $470. Minnesota's average credit amount may be lower than the national averages because state residents have above-average incomes, or because Minnesotans are more likely to receive child care assistance or use pre-tax dependent care accounts, reducing the amount of qualifying expenses.

For more information: Contact legislative analyst Nina Manzi at 651-296-5204. Also see the House Research information brief *The Minnesota and Federal Dependent Care Tax Credits*, February 2014.

HOUSE RESEARCH | Short Subjects

Danyell Punelli

Updated: June 2017

Child Care Assistance

What is child care assistance?

Child care assistance programs subsidize the child care expenses of eligible low-income families. The Minnesota Department of Human Services administers two child care assistance programs: Minnesota Family Investment Program (MFIP) child care assistance and Basic Sliding Fee (BSF) child care assistance. MFIP child care subsidizes the child care costs of families receiving cash assistance through MFIP and provides child care assistance for eligible families for the first 12 months after the family leaves MFIP cash assistance (transition year child care). BSF child care provides a child care subsidy to low-income working families who are not receiving cash assistance from MFIP.

What are the eligibility requirements for child care assistance?

To be eligible for child care assistance, both parents (or one parent in single-parent households) must participate in an authorized work, education, or training activity, cooperate with child support enforcement, and meet income eligibility guidelines. The maximum income limit to be eligible for child care assistance is 47 percent of state median income at program entry and 67 percent or less of state median income at program exit. (For fiscal year 2017, 47 percent of state median income was $37,264, and 67 percent of state median income was $53,122 for a family of three.)

Children up to age 12 are eligible for child care assistance (up to age 14 for disabled children). During fiscal year 2016, there were an average of two children per family receiving MFIP child care assistance and 1.9 children per family receiving BSF child care assistance.

County agencies or their contractors must determine eligibility within 30 days of receiving a request for child care assistance. Direct reimbursement is the only method of receiving child care assistance.

What is the average annual subsidy a family receives?

In fiscal year 2016, the estimated average annual subsidy for a family receiving MFIP child care assistance was $18,900, and the estimated average annual subsidy for a family receiving BSF child care assistance was $12,540.

Maximum reimbursement rates paid for child care assistance are set by the legislature. The 2011 Legislature decreased provider reimbursement rates by 2.5 percent, effective October 31, 2011. The 2013 Legislature modified reimbursement rates effective February 3, 2014, and created a provider rate differential for child care providers that hold a three- or four-star quality rating under the Parent Aware quality improvement and rating system.

Are families required to pay for some child care expenses?

There is a family co-payment requirement based on family size and income. The maximum family co-payment is about 14 percent of gross monthly income. Families with incomes below 75 percent of the federal poverty level are exempt from making co-payments ($15,119 and below for a family of three in 2017).

How is child care assistance funded?

The child care assistance programs receive funding from a variety of sources, including the federal Child Care Development Fund (CCDF), federal Temporary Assistance for Needy Families (TANF) funds, the state general fund, and county funds.

Total estimated fiscal year 2017 annual direct service payments are $157.2 million for MFIP and transition year child care and $112.2 million for BSF child care assistance.

How many families receive child care assistance?

During fiscal year 2017, an estimated average of 7,738 families received MFIP child care assistance and 8,334 families received BSF child care assistance per month.

Not all families who apply for child care assistance receive it. MFIP child care is a forecasted, fully funded program, while BSF child care receives a capped allocation. As of March 31, 2017, there were 4,997 families on the waiting list for BSF child care assistance.

What is the child care quality rating system?

Minnesota has a voluntary child care and early learning program quality rating system called Parent Aware. The rating system is available in all 87 counties.

What are some potential legislative issues?

During previous legislative sessions, there were several proposals to consolidate the child care assistance programs into one program to reduce administrative and program complexity. However, none of these proposals have been passed by the legislature. There may be future attempts to consolidate the child care assistance programs.

There have also been proposals to make BSF child care a forecasted, fully funded program to eliminate the waiting list.

Finally, the federal child care development block grant was reauthorized by Congress in 2014. This reauthorization requires the state to make changes to the child care assistance programs to comply with federal laws and regulations.

Minnesota has enacted changes to child care licensing, background study provisions, and family-friendly eligibility policies to comply with the federal law. In order to be in full compliance, the state still needs to enact changes to health and safety requirements and provider reimbursement.

For more information: See the House Research publications *Funding to Support Child Care Assistance*, December 2011, and *Minnesota Family Assistance*, February 2016.

HOUSE RESEARCH | Short Subjects

Joel Michael
Updated: July 2017

The Minnesota Estate Tax

The estate tax equals a percentage of the taxable estate

Minnesota imposes a tax on the estates of individuals who are residents of the state when they die or who own tangible property (typically real estate) in Minnesota when they die. The tax is imposed under a graduated rate schedule on the taxable estate. The taxable estate is generally the fair market value of the estate on the day the decedent died, less deductions (e.g., transfers to a surviving spouse and charitable bequests) and an exemption amount.

History of Exemption Amount

CY of Death	Exemption
2006 – 2013	$1,000,000
2014	1,200,000
2015	1,400,000
2016	1,600,000
2017	2,100,000
2018	2,400,000
2019	2,700,000
2020	3,000,000

Legislation in 2014 increased the exemption amount in steps to $2 million by 2018 and provided that calculation of the tax would be based on a state tax rate schedule, rather than the state credit under prior federal law. Before the increases enacted in 2014 fully took effect, legislation enacted in 2017 further increased the exemption to $3 million for 2020 (*see table for details of changes in exemption amounts).* Tax rates range from 12 percent to 16 percent for 2017 deaths; bottom rate increases to 13 percent in 2018. The top rate applies to the amount of the taxable estate over $10,100,000.

Gifts made within three years of death are included in the estate

The 2013 Legislature enacted a gift tax to complement the estate tax. This legislation also subjected gifts made within three years of death to the estate tax; this rule only applies to gifts that are subject to the federal gift tax (i.e., that are above the annual per-recipient exemption, currently $14,000 indexed for inflation). The 2014 Legislature repealed the gift tax, but the three-year rule remains in effect, subjecting these gifts to the estate tax.

An exclusion for qualifying small business property and homestead farmland applies

Legislation passed in 2011 provided two exclusions for qualifying small business property and homestead farmland, effective for decedents dying after June 30, 2011. The combined value of these exclusions and the general exemption amount cannot exceed $5 million. As the general exemption increases, the maximum amount of these special exemptions decline (i.e., the overall $5 million maximum continues to apply).

The decedent or spouse must have owned the qualifying property for three years before the date of death, and the heirs must own and use the property in the business (or the land must continue to be classified as agricultural property for property tax purposes) for three years after the date of death. Failure to do so triggers a recapture tax equal to 16 percent of the value of the property.

Few estates pay the tax; it is a progressive source of revenue

Fewer than 2 percent of estates pay the estate tax. The small number of estates paying tax results from the exemption amount and the fact that amounts left to surviving spouses are deductible.

Based on Department of Revenue's (DOR) *Tax Incidence Study*, the tax is the most "progressive" state tax. Decedents with taxable estates are some of the most affluent individuals in the state. Most evidence also suggests that recipients of bequests from taxable estates have above-average incomes.

The estate tax provides a modest, but volatile, source of general fund revenue

Revenues from the tax are deposited in the general fund. (*See the table for the last five years of collections.*) Revenues from the tax are volatile. Fiscal year 2015 revenues were 18 percent lower than the prior year and, then, increased by 26 percent in the following fiscal year (2016). If one very wealthy individual dies, collections can soar. In other years, revenues may fall below estimates. For example in August 2005, DOR received tax revenues of $112 million from one estate; total collections were $73 million in the prior year.

Estate Tax Revenues FY 2012 – 2016 (thousands)

2012	$165,277
2013	$158,928
2014	$177,433
2015	$145,292
2016	$183,216

Source: Minnesota Dept. of Revenue

DOR estimates the $1 million increase in the exemption, enacted in 2017, will reduce revenues by about 25 percent when fully effective. The number of estates owing tax will drop from about 1,100 to between 200 and 250.

State estate taxes create incentives for high net worth individuals to move to no-tax states

From 1985 to 2001, Minnesota imposed a "pickup" estate tax equal to the now-repealed federal credit for state death taxes. Under this system, the federal treasury bore the effective burden of the tax—the state tax reduced federal tax dollar-for-dollar. As a result, Minnesota residents had no reason to move to another state to avoid the tax. However, with the repeal of the federal credit in 2001, the state tax became a "real" tax that reduces the amount of property that can be left to heirs.

Avoiding the tax requires changing one's permanent home (domicile) to another state or reducing the amount of Minnesota property owned. Affluent individuals may be willing to change their domiciles to avoid paying potentially multimillion-dollar state estate tax liabilities. The fact that many of these individuals have second homes in states without estate or inheritance taxes increases their ease of moving. Most states (33 in 2018) do not have estate or inheritance taxes. Several of these states also have no income tax, allowing individuals who change their domiciles to those states to avoid both taxes.

For more information: Contact legislative analyst Joel Michael at joel.michael@house.mn. Also see the House Research short subject *Estate and Inheritance Taxation: An Overview of the States,* December 2016 and Minnesota Department of Revenue, *Minnesota Estate Tax Study* (2014) for more information.

HOUSE RESEARCH | Short Subjects

Cristina Parra

Updated: July 2017

Conditions of Continuing Employment for K-12 Teachers

"Continuing contract rights" and "tenure rights" offer equivalent procedural protections

Two sections of Minnesota Statutes govern conditions of continuing employment for licensed K-12 teachers in Minnesota's public schools. Section 122A.40 contains general provisions for all teachers' continuing contract rights except those teachers teaching in the four first-class city school districts of Minneapolis, St. Paul, Rochester, and Duluth. Section 122A.41, which contains similar provisions, governs the tenure rights of teachers teaching in the four first-class city school districts. The terms "continuing contract rights" and "tenure rights" mean that a school district may not dismiss a teacher from a teaching position without first demonstrating the cause for that dismissal. The two terms are equivalent in the procedural protections they afford and are used interchangeably.

A newly licensed probationary teacher must successfully complete three consecutive years of continuous employment

After a newly licensed probationary teacher completes three years of continuous employment, she or he becomes a continuing contract teacher if employed by a nonfirst-class city school district, or a tenured teacher if employed by a first-class city school district. A probationary teacher may interrupt the three-year period of consecutive employment for maternity, paternity, or medical leave. During the probationary period, a school district has considerable discretion in deciding whether or not to renew the probationary teacher's employment contract. A school district under section 122A.40 must notify a probationary teacher before July 1 that it will not renew the teacher's contract. A school district under section 122A.41 must provide a probationary teacher at least 30 days' notice of a discharge or demotion. A teacher that has received a continuing contract or tenure is entitled to certain employment-related protections, including bumping rights, and just cause and due process guarantees.

Teachers' continuing contracts remain in effect unless a specified circumstance arises

The continuing contracts of teachers in school districts under section 122A.40 remain in full force and effect unless the school board and the teacher modify the contract, or the school board:

- terminates the teacher effective at the close of the school year, as long as the board provides the teacher an opportunity to remedy the deficiency;
- places the teacher on an unrequested leave of absence before July 1;
- temporarily suspends the teacher and places the teacher on a leave of absence for health reasons; or
- immediately discharges the teacher for conduct that is not remediable.

A teacher may resign from the contract before April 1 or, if a collective bargaining agreement is not settled, the teacher may resign within 30 days of when an agreement is ratified or July 15, whichever is first.

Tenured teachers cannot be discharged or demoted except for cause

Tenured teachers in school districts under section 122A.41 may be discharged or demoted for:

- immoral character, conduct unbecoming a teacher, or insubordination;
- failure to teach;
- inefficiency in teaching or in management of a school;
- affliction with a communicable disease; and
- discontinuance of position or lack of pupils.

School boards must follow procedures when terminating, discharging, or demoting a teacher

A school board that intends to terminate a teacher must provide the teacher with written notice of the grounds for the proposed termination and the teacher's right to request a hearing. A teacher may request a public or private hearing before the school board or an arbitrator. The board and the teacher may have counsel, who can examine witnesses and present arguments. The teacher may appeal a board decision to the state courts. An arbitrator who conducts a hearing must decide, based upon a preponderance of the evidence, whether to terminate, discharge, or demote the teacher. The arbitrator's decision is final and binding on the parties, and may be reversed on only limited grounds.

There are two principal differences between the procedures for districts under sections 122A.40 and 122A.41. A school board under section 122A.40 must provide written notice of a termination that is to be effective at the end of the school year by April 1, or else must wait a year to initiate the process, while a school board under section 122A.41 has no similar deadline. Additionally, a suspension pending a final decision on the termination must be paid in a district under section 122A.40, but may be unpaid in a district under section 122A.41; however, in a district under section 122A.41, a teacher who is reinstated following a hearing must receive full back wages.

Teachers may be placed on an unrequested leave of absence

A school board may place a teacher on an unrequested leave of absence, without pay or fringe benefits, when the board discontinues the teacher's position, lacks sufficient students, faces financial limitations, or merges classes as a result of consolidating districts. A board must hold a public hearing on unrequested leaves before July 1. Statutory terms governing resignations, leaves, certification, experience, bumping rights, and districts' ability to realign positions affect staff reduction decisions.

Collective bargaining agreements effective July 1, 2019, or later must include unrequested leave plans

Under current law, if the school board and the teachers' exclusive bargaining representative fail to negotiate an unrequested leave of absence plan, state law provides default terms. Teachers are placed on leave based on the inverse order of their employment and on their areas of certification. Seniority applies to each area in which a teacher is certified. Teachers must be recalled to their positions, or other available positions, in the inverse order in which they were placed on leave; most senior teachers are recalled first. However, the seniority-based statutory default will not apply to collective bargaining agreements that go into effect July 1, 2019, or later. Such agreements must include a plan for unrequested leaves.

For more information: Contact legislative analyst Cristina Parra at 651-296-8036.

Matt Burress

Updated: July 2017

Minnesota Speed Limits

Basic speed limits and requirements

Default Minnesota speed limits are set by state statute, and there are various circumstances where they can be modified. The statutory speed limits are: 65 m.p.h. or 70 m.p.h. for interstates (depending on whether it is, respectively, within or outside an urbanized area of at least 50,000); 65 m.p.h. on divided highways with controlled access; 30 m.p.h. in an "urban district," which is any segment of a city street or town road with structures spaced less than 100 feet apart for a minimum distance of a quarter-mile; 10 m.p.h. for alleys, mobile home parks, and campgrounds; and a 55 m.p.h. default on other roads. Minn. Stat. §§ 169.011; 169.14, subd. 2; 327.27, subd. 2.

The limit increases by 10 m.p.h. when passing on two-lane highways posted at 55 m.p.h. or higher. Other limits apply for some specific vehicles. Minn. Stat. §§ 169.14, subd. 2a; 169.801. A 40-m.p.h. minimum speed applies on interstates.

State law also mandates that "no person shall drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions." Minn. Stat. § 169.14, subd. 1. The provision can obligate a motorist to lower the speed of travel below the limit, particularly if there are dangerous conditions such as snow.

Adjusted speed limit zones

The Minnesota Department of Transportation (MnDOT) has authority to establish speed zones in which the speed limit is higher or lower than those set in statute. Zones can be established after MnDOT conducts an engineering and traffic investigation, which analyzes factors like roadway design and characteristics, traffic volume, crash history, and observed speeds. While accounting for other conditions, MnDOT's policy is that the limit should normally be set near the 85^{th} percentile of vehicle speeds (that is, the speed at or below which 85 percent of vehicles travel). Minn. Stat. § 169.14, subd. 5.

Restricted local authority

Cities, counties, and towns have limited power to set speed limits on streets and highways under their own jurisdiction. If requested by a local road authority, MnDOT performs an engineering and traffic study of the road. However, MnDOT—not the local authority—determines the safe and reasonable speed limit as well as whether to establish a speed zone.

There are some exceptions that provide for adjusting the statutory speed limits.

- If MnDOT sets a speed zone for a city street or town road in an "urban district" (defined above) that is at least a quarter-mile long, the city or town can lower the limit to 30 m.p.h. Minn. Stat. § 169.14, subd. 5b.
- On a residential roadway, a local road authority may reduce the speed limit to 25 m.p.h. A "residential roadway" is a city street or town road whose total length is up to a half-mile. Minn. Stat. § 169.011, subd. 64.
- In a rural residential district, a local road authority may reduce the speed limit to 35 m.p.h. A "rural residential district" is a city street or town road

segment with residential houses spaced less than 300 feet apart for a minimum distance of a quarter-mile. Minn. Stat. § 169.011, subd. 69a.

- In school zones a local road authority may, based on an engineering study, prescribe a speed limit that is as low as 15 m.p.h. and no more than 30 m.p.h. below the surrounding limit. Minn. Stat. § 169.14, subd. 5a.
- Subject to various requirements, speed limits can also be adjusted on other roadways, including: (1) park roads (at no less than 15 m.p.h. and no more than 20 m.p.h. below the surrounding limit, and subject to a MnDOT engineering and traffic study); (2) on streets that have a designated bicycle lane (at no less than 25 m.p.h.); (3) in alleys; and (4) in mobile home parks (at over 10 m.p.h. but no more than 30 m.p.h.). Minn. Stat. §§ 160.263, subd. 4; 169.14, subds. 5c and 5e; 327.27.

Workers present speed limits

Speed limits are adjusted in work zones. Minn. Stat. § 169.14, subd. 5d.

- An existing speed limit of 50 m.p.h. or higher is adjusted down to 45 m.p.h. when a least one lane of traffic is closed and workers are present, although there are various exceptions to the provision.
- Without an engineering and traffic study, both MnDOT and local road authorities can reduce the limits when workers are present, with restrictions on the extent of a reduction that depend on the existing limit.

Penalties for violations

Speeding is generally a petty misdemeanor, carrying a base fine that normally ranges from $40 to $150, and no prison sentence. The fine is $300 for a violation in a work zone. The fine is doubled if the violation (1) occurs in a school zone, (2) involves speeds of 20 m.p.h. or more above the posted limit, or (3) occurs when passing a parked emergency vehicle with flashing lights. If a speeding violation is committed in a manner that endangers persons or property, it can be charged as a misdemeanor. In addition to the base fine, a $75 court surcharge is imposed for speeding convictions and there can be a law library fee. Minn. Stat. §§ 169.14; 169.89, subd. 1; 357.021, subd. 6.

A driver's license will be revoked for at least six months for driving over 100 m.p.h. Minnesota does not use a point system that triggers removal of driving privileges. However, multiple speeding or other traffic violations within a year can lead to loss of a license. Minn. Stat. §§ 169.14, subd. 1a; 169.89; 171.17.

Violations on a driver's record

A provision (originally known as the "Dimler amendment") governs when speeding violations are recorded on the motorist's driving record maintained by the Department of Public Safety (DPS). Minn. Stat. § 171.12, subd. 6. Records are accessible to insurance companies. The courts keep records separately.

Speeding violations stay off of a DPS driving record if the driver did not exceed:

- 10 m.p.h. over the speed limit in a 55 m.p.h. zone; or
- 5 m.p.h. over the limit in a 60 m.p.h. zone (which had temporarily increased to 10 m.p.h. above the limit during part of 2012 to 2014).

The prohibition on recording violations does not apply if: (1) the speed limit is below 55 m.p.h. or is 65 m.p.h. or higher; (2) the speeding violation occurred in a commercial motor vehicle; or (3) the driver holds a commercial driver's license or learner's permit.

Jeff Diebel

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Hunting and Fishing by Military Personnel and Veterans

Firearms Safety Certificate Required

As required by law, anyone born during or after 1980 must have a firearms safety certificate in order to get an annual license to take wild animals with a firearm in Minnesota. Or instead of the firearms safety certificate, a hunter can have an equivalent certificate issued by Minnesota or another state. An advanced hunter education certificate suffices as an equivalent certificate. (Minn. Stat. §§ 97B.015 and 97B.020)

As defined in statute, wild animals include any type of wild mammal, bird, or waterfowl for which hunting is regulated under Minnesota law and/or Department of Natural Resources (DNR) rules. The terms "taking" and "firearms" are also broadly defined. (Minn. Stat. § 97A.015)

Active Military Exempt from Safety Certificate Requirement

A person is exempt from having to have a firearms safety certificate if the person has completed military basic training *and* is serving in active military service in any branch or unit of the U.S. Armed Forces, including while on regular leave or terminal leave.

Following active military service, the firearm safety certificate is again required. However, anyone who has completed basic military training is exempt from the shooting and field exercise portion of the instruction for that certificate and may take the remainder of the instruction online through the DNR. (Minn. Stat. §§ 97B.015 and 97B.020)

"Active duty" is defined broadly to include federal active service (U.S.C. Title 10), federally funded state active service (U.S.C. Title 32), or state active service (Minn. Stat. § 190.05, subd. 5).

License Not Needed During Military Leave

While on any type of military leave, a Minnesota resident serving in the U.S. Armed Forces stationed outside of or returning to Minnesota may hunt and fish in Minnesota without a hunting or fishing license. The person must keep on his or her person while hunting official military leave papers and/or a current valid military ID card showing the person's transitional status or leave. However, the resident must obtain any required seals, tags, and coupons, which must be furnished by the license agent without charge. This requirement does not apply to the taking of moose or elk. (Minn. Stat. § 97A.465, subd. 1.)

Soldiers and Veterans Can Get Lottery Preference

The Commissioner of Natural Resources may grant statutorily specified groups of Minnesota resident service members and veterans, first preference in drawings for antlerless deer permits and turkey permits. (Minn. Stat. § 97A.465, subd. 5)

Discharged Service Members Can Get Deer Licenses During the Season	A Minnesota resident who is discharged from active military service during, or within ten days before the firearms deer season begins, can purchase a firearms deer license during the season. The license is valid immediately upon issuance. (Minn. Stat. § 97A.465, subd. 4) Normally, a deer hunting license issued during the season is not valid unless it was issued prior to legal shooting hours on the day of its first use. (Minn. Stat. § 97A.411, subd. 3) In order to get the license, the hunter must show his or her official discharge papers.
Disabled Veterans Don't Have to Pay for Certain Licenses	A disabled veteran can get a permanent fishing license free from the DNR Central Office and free annual licenses to hunt deer and small game from any licensing agent. The veteran must be a Minnesota resident who is a military veteran with a 100-percent service-connected disability rating from the U.S. Department of Veterans Affairs. (Minn. Stat. §§ 97A.441 and 197.447) No trout stamp is required for the fishing license. In addition, a disabled veteran does not need to get a pheasant stamp or Minnesota waterfowl stamp to hunt pheasants or waterfowl, but must have a turkey stamp to hunt turkeys and a federal duck stamp to hunt waterfowl. (Minn. Stat. §§ 97B.715, 97B.721, 97B.801, and 16 U.S.C. 718)
Nonresident Military Can Get Resident Privileges	Nonresident military personnel training at Camp Ripley may purchase a resident fishing license. (Minn. Stat § 97A.465, subd. 2) Nonresident military personnel stationed anywhere in Minnesota may purchase resident hunting and fishing licenses (but not for moose or elk). (Minn. Stat. § 97A.465, subd. 3)
Free License Within Two Years of Serving Abroad	Any current Minnesota resident who has served in federal active military service outside the United States within the past two years, as shown by official discharge papers, is eligible to receive one free deer-hunting license from any DNR licensing agent. In addition, any such person may also hunt small game or fish in Minnesota without a license, provided he or she obtains any seals, tags, or coupons that may be required for such hunting or fishing. (Minn. Stat. §97A.465, subd. 1b)
Spouses of Residents on Active Duty Can Get Resident Licenses	The spouse of any Minnesota resident currently serving in active military duty is entitled to any Minnesota hunting or fishing license at the resident rate, irrespective of whether the spouse is a Minnesota resident. (Minn. Stat. §97A.465, subd. 1a)
Coding on Driver's License	When renewing a Minnesota driver's license, a veteran or other person with a firearms safety certificate or an equivalent certificate, may request that the driver's licensing agency code that fact onto the person's new driver's license. The person must show proof of certification to the licensing agency upon application. (Minn. Stat. § 171.07, subd. 13)
Getting a License	To learn more about these special privileges, active military personnel and veterans should contact the DNR via its website, www.dnr.state.mn.us, or by phone, 651-296-6753. Information and licenses can also be obtained through DNR's local field licensing agents (e.g., sporting goods stores).

For more information: Contact legislative analyst Jeff Diebel at 651-296-5041.

HOUSE RESEARCH | Short Subjects

Elisabeth Klarqvist

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Minnesota Clean Indoor Air Act

The Minnesota Clean Indoor Air Act (MCIAA) prohibits smoking in many indoor places (Minn. Stat. §§ 144.411 to 144.417). The legislation was enacted in 1975 in an effort to protect public health, comfort, and the environment by prohibiting smoking around children and ill or injured persons. The MCIAA was amended by the Freedom to Breathe Act of 2007 (Laws 2007, ch. 82), which substantially expanded the prohibition on smoking to nearly all indoor areas to provide protection from secondhand smoke. The MCIAA was further amended in 2014 to prohibit the use of electronic cigarettes in certain settings.

Where is smoking prohibited?

The MCIAA prohibits smoking in public places, at public meetings, in places of employment, and in public transportation. Places of employment are indoor areas where two or more persons perform services, whether or not the persons are paid. Public places and places of employment include the following:

- Arenas
- Auditoriums
- Banquet facilities
- Bars and other food or liquor establishments
- Bowling establishments
- Common areas of rental apartment buildings
- Employee cafeterias
- Factories
- Libraries
- Lounges
- Museums
- Offices
- Restaurants
- Retail stores and other commercial establishments
- Theaters
- Vehicles used for work purposes during the hours of operation if more than one person is present
- Warehouses

Smoking is also specifically prohibited in day care centers, in day care homes during their hours of operation, in certain health care facilities and clinics, and in public transportation vehicles, with certain exceptions. In addition, all tobacco products are prohibited in public schools, except for tobacco lit by an adult as part of a traditional Indian spiritual or cultural ceremony.

Where is smoking permitted?

Smoking is permitted in the following places:

- A family home or group family day care provider home, outside of its hours of operation
- Public transportation vehicles when they are being used for personal use
- Specified rooms in residential health care facilities
- Separated, well-ventilated areas of locked psychiatric units
- Specified areas for use in peer-reviewed scientific studies related to smoking
- Private residences and automobiles when not used as a place of employment
- Hotel and motel guest rooms
- Tobacco products shops for the purpose of sampling products
- Heavy commercial vehicles
- Farm vehicles and construction equipment

- Buildings on family farms
- A disabled veterans' rest camp in Washington County

Smoking is permitted by Native Americans as part of a traditional Native American spiritual or cultural ceremony and by actors as part of a theatrical performance. The MCIAA also permits smoking outside, unless it is limited or prohibited by local government.

How is the use of electronic cigarettes treated under the MCIAA?

The MCIAA's definition of smoking does not include the use of electronic cigarettes, so the act does not broadly prohibit the use of electronic cigarettes in public places, at public meetings, at places of employment, or in public transportation. The use of electronic cigarettes is prohibited in day care centers; family home and group family day care provider homes during their hours of operation; health care facilities and clinics, with certain exceptions; any building owned or operated by the state or a political subdivision; any facility owned by a public college or university; any facility licensed by the commissioner of human services, or licensed by the commissioner of health if also governed by federal licensing requirements; and public schools.

What are the responsibilities of proprietors?

Proprietors or other people or entities who control the use of a public place, public transportation, place of employment, or a public meeting must make reasonable efforts to prevent smoking inside of these places, including:

- posting signs or employing other appropriate means of prohibiting smoking;
- asking smokers to refrain from smoking;
- asking smokers who do not refrain from smoking to leave the premises;
- handling smokers who refuse to leave in a manner consistent with other persons acting in a disorderly manner or as a trespasser;
- not providing ashtrays or matches in areas where smoking is prohibited; and
- in a restaurant or bar, not serving an individual who smokes in an area where it is prohibited.

Who enforces the Minnesota Clean Indoor Air Act?

The Department of Health (MDH) enforces the MCIAA and can delegate enforcement to community health boards. MDH can use the enforcement procedures in the Health Enforcement Consolidation Act to ensure compliance with the MCIAA, including issuing fines of up to $10,000 against proprietors for violations. Also, peace officers can cite proprietors and individuals who violate the MCIAA. It is a petty misdemeanor to smoke, or to permit someone to smoke, in an area where smoking is prohibited or restricted by the MCIAA.

Can local governments enact stricter ordinances?

The MCIAA authorizes local units of government to enact and enforce more stringent measures than those provided in the MCIAA to protect individuals from secondhand smoke, including limiting or prohibiting smoking in outdoor areas.

For more information: Contact legislative analyst Elisabeth Klarqvist at 651-296-5043. Additional information is also available from the Minnesota Department of Health at http://www.health.state.mn.us/divs/eh/indoorair/mciaa/ftb/index.html.

Ben Johnson

August 2017

Distracted Driving: Texting and Sending or Receiving Other Electronic Messages

Is texting while driving illegal under Minnesota law?

Composing, reading, or sending an electronic message while driving is a petty misdemeanor under Minnesota law.

The law prohibits actions that require typing or reading from a phone, tablet, laptop, or similar device. Electronic messages include texts, e-mails, instant messages, accessing the Internet, and any similar actions.

It is ***not*** a violation to:

- use a phone or other device in a hands-free mode;
- make a cellular phone call;
- obtain emergency assistance for an accident or medical emergency, or to prevent a crime that is about to be committed; or
- send or read an electronic message in the reasonable belief that a person's life or safety is in immediate danger.

It is also not a violation for the driver of an authorized emergency vehicle to send or read an electronic message while driving as part of official duties. Minn. Stat. § 169.475.

What is the penalty for texting while driving?

Violation of the texting while driving law can be punished by a fine. The law allows the Judicial Council to set the amount of that fine; the current fine for a first offense is $50.

A second offense must add $225 to the amount of the fine for a first offense. At this time, a second offense would result in a fine of $275. Tickets for texting while driving are also subject to the surcharge on all criminal and traffic offenses, which increases the amount an offender must pay by at least $75.

Payable offenses are not technically crimes under Minnesota law and do not require a court appearance. A person receiving a ticket may pay the citation online. Failure to pay a fine can result in the suspension of a driver's license.

What if a person causes an accident while texting?

If texting results in some other dangerous driving conduct, prosecutors can charge a person with a more serious crime. Under certain circumstances, composing or reading an electronic message while driving may be so likely to endanger another person that it would rise to the level of careless or reckless driving.

Driving a vehicle carelessly in a manner likely to endanger another person is careless driving. Driving while aware of a substantial risk to another's safety and in disregard of that risk is reckless driving. Both careless driving and reckless driving are misdemeanors, which can be punished by up to 90 days in jail, a $1,000 fine, or both. If a person driving recklessly causes the death of another, the penalty increases to a gross misdemeanor, which can be punished by up to a year in jail, a $3,000 fine, or both. Minn. Stat. § 169.13.

What are the laws and penalties in other states?

Currently, 46 states ban texting while driving and 14 ban talking on a hand-held cell phone.

In every state that bans texting, the initial penalty is a fine. Fines for a first violation range from $20 to $500 and, like Minnesota, most states include an escalated penalty for subsequent violations. A few states also suspend a violator's license.

Five states (Alaska, Illinois, Maryland, Pennsylvania, and Utah) explicitly state that a person who is texting and causes an accident resulting in serious injury or death is guilty of a criminal offense that can be punished with jail or prison.

Does making texting while driving illegal reduce the number of crashes?

There is no clear answer to this question. Several studies have addressed whether banning texting while driving reduces accidents, and the results are inconclusive.

The Highway Loss Data Institute conducted studies in 2009, 2010, and 2013, and those studies found that there was no reduction in crashes after laws banning texting went into effect. High visibility enforcement efforts did reduce the number of drivers using hand-held cell phones. However, the program did not reduce the total number of accidents.

Other studies have produced inconclusive results. A 2014 article attempted to coordinate data from 11 different studies. It concluded that bans on hand-held phone conversations resulted in reductions of hand-held phone use. But the study also found that there was no clear answer as to whether laws banning texting while driving were effective in reducing crashes. (A. T. McCartt, D. G. Kidd, and E. R. Teoh, "Driver Cellphone and Texting Bans in the United States: Evidence of Effectiveness," *Annals of Advances in Automotive Medicine*, 58 (2014): 99–114.)

For more information: Contact legislative analyst Ben Johnson at 651-296-8957.

Ben Johnson

August 2017

Female Genital Mutilation

In 2017, the Minnesota House considered legislation to address the practice of female genital mutilation. This short subject provides an introduction for legislators on the practice of female genital mutilation and restrictions under current Minnesota law.

What is female genital mutilation?

Female genital mutilation is a general term for any procedure that intentionally alters or injures the female genital organs for nonmedical reasons.

The World Health Organization divides different types of female genital mutilation into four categories:

- Type 1, also called circumcision or clitoridectomy, is the partial or total removal of the clitoris.
- Type 2, excision, involves the partial or total removal of the clitoris and the labia minora.
- Type 3, called infibulation, involves the narrowing of the vaginal opening by creating a covering seal which typically involves cutting and repositioning the labia minora, labia majora, or both.
- Type 4, includes any other harmful procedure to the female genitalia performed for a nonmedical purpose such as pricking, piercing, scraping, and cauterizing.

Female genital mutilation is usually performed on minors.

Why is female genital mutilation performed?

A wide range of communities originating in Africa, the Middle East, and Asia perform female genital mutilation. The reasons for performing the procedure vary among the communities, but include a mixture of social and cultural reasons. Many cultures see female genital mutilation as a social norm and an important rite of passage for young girls. Some communities associate it with cultural ideals of modesty and femininity. For some communities, female genital mutilation is considered a religious procedure, though it is not particular to any religious faith. The practice exists in Muslim, Christian, and Jewish communities, but it predates the origins of Christianity and Islam. Female genital mutilation is also seen as a way to control female sexuality.

Have medical professionals identified any medical risks or benefits to female genital mutilation?

Female genital mutilation has no identified medical benefits.

The procedure can cause a variety of short- and long-term medical complications. Comprehensive studies identified consequences that range from severe pain and bleeding to infections, urinary problems, and even death. (See: R. C. Berg, V. Underland, J. Odgaard-Jensen, *et al.*, "Effects of female genital cutting on physical health outcomes: a systematic review and meta-analysis," *BMJ Open* (2014); and A. Kaplan, S. Hechavarría, M. Martín, and I. Bonhoure, "Health consequences of female genital mutilation/cutting in the Gambia, evidence into action," *Reproductive Health*, 8 (2011): 26.) In many communities, traditional circumcisers perform the procedures without the benefit of medical facilities. In some cases, medical professionals perform the procedure. Some medical professionals choose to perform female genital mutilation to minimize the probability of infection and other complications under the theory that a lay person will perform the procedure if the medical professional refuses to do so.

Is female genital mutilation legal in Minnesota?

It is illegal to perform Type 1, 2, or 3 female genital mutilation in Minnesota unless it is medically necessary and performed by a licensed or certified medical professional. A person who performs a circumcision, excision, or infibulation may be sentenced to up to five years in prison. A parent's consent to the procedure is not a defense. Minn. Stat. § 609.2245.

Can a parent be prosecuted for allowing a child to undergo female genital mutilation?

Minnesota's law criminalizing female genital mutilation does not directly address the actions of a parent. Parents who arrange or knowingly allow the procedure to take place may be charged with aiding and abetting the crime of female genital mutilation or with neglect or endangerment of a child. Both offenses are felonies.

Is female genital mutilation a sexual assault?

Under Minnesota law, a sexual assault is an action performed with sexual intent. While one purpose of female genital mutilation may be to control female sexuality, the procedure itself is not performed with a sexual intent. Therefore it would be unlikely to meet the definition of sexual assault under Minnesota law.

Is female genital mutilation illegal under federal law?

Female genital mutilation is illegal under U.S. federal law. The crime is nearly identical to what is in Minnesota law but includes a provision that makes it illegal to knowingly transport a person from the United States to another country for the purpose of having a female genital mutilation procedure performed on that person. 18 U.S.C. § 116.

What action does child protective services take when it learns that female genital mutilation has been performed on a child?

Minnesota law does not require child protective services to take any specific action if officials become aware that female genital mutilation was performed on a child. However, the agency can take action based on evidence that a child has been abused or neglected. Specific cases of female genital mutilation would be assessed on a case-by-case basis to determine if there was abuse or neglect. Child protection workers would consider a variety of factors including the age of a child, the amount of time since the procedure occurred, and evidence of any other abuse or neglect of the child in assessing what, if any, intervention was appropriate. Action may include a full family assessment, removing a child on a temporary basis, and terminating parental rights.

What outreach efforts are done to reduce female genital mutilation?

Minnesota law requires the Department of Health to carry out education, prevention, and outreach activities in communities that traditionally practice female genital mutilation to inform them of the health and psychological risks of the procedure. In addition, the department must inform community members and the medical community about the criminal penalties associated with performing female genital mutilation.

For more information: Contact legislative analyst Ben Johnson at 651-296-8957

Ben Johnson

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Prohibition Against *Ex Post Facto* Laws

What is an* ex post facto *law?

Laws that reach back in time and make conduct punishable in a way it was not punishable for when it was done are *ex post facto* laws. Such a law (1) applies to events occurring before its enactment and (2) disadvantages the person affected by it. A law creates a disadvantage if it:

- creates a new crime;
- increases the punishment for an existing crime;
- deprives a defendant of a defense available when the act was committed; or
- otherwise renders an act punishable in a different, more disadvantageous manner than when the person committed the act.

A law is not *ex post facto* if it merely changes trial procedures or rules of evidence and operates in a limited and unsubstantial manner to the accused's disadvantage. In addition, a law is not *ex post facto* if it is a civil, regulatory law and is not sufficiently punitive in purpose or effect to negate the civil label.

Can the state pass* ex post facto *laws?

No. Article I, section 10, of the United States Constitution and Article I, section 11, of the Minnesota Constitution prohibit the state from enacting *ex post facto* laws. The purpose of the ban is to ensure that individuals have fair warning of changes in law and to protect people from a government's unjust or oppressive use of power.

How do courts determine whether a law involves a punishment or a regulation?

A law is punitive if the legislature intended to punish an offender for a past act and the law actually functions as punishment. When the legislature does not state whether it intends a statute to be punitive or regulatory, the court considers a number of factors. These factors are whether:

- the sanction involves an affirmative disability or restraint,
- the sanction has historically been regarded as a punishment,
- the sanction comes into play only on a finding of either intent or knowledge of wrongdoing,
- the sanction's operation will promote the traditional aims of punishment—retribution and deterrence,
- the behavior to which the sanction applies is already a crime,
- an alternative purpose to which the sanction may rationally be connected is assignable for it, and
- the sanction appears excessive in relation to the alternative purpose assigned.

Kennedy v. Mendoza-Martinez, 372 U.S. 144, 168-69 (1963).

What types of laws have been found to violate the* ex post facto *clause?

The following cases are examples of laws found by Minnesota courts to violate the *ex post facto* clause or potentially raise *ex post facto* concerns:

- An 18-year-old may not be prosecuted in adult court for a crime committed when 18-year-olds were under juvenile court jurisdiction.
- An offender's "criminal history score" may not include a felony point for a previous out-of-state crime which, at the time it was committed, was equivalent to a gross misdemeanor crime under Minnesota law.
- An offender's sentence may not include court-ordered restitution in addition to an executed sentence because the law in effect at the time of defendant's crime did not authorize the imposition of both sanctions.
- A statutory defense to a crime may not be eliminated retroactively.

What types of laws have survived an* ex post facto *challenge?

The following cases describe situations where the court found no violation.

- Previous DWI convictions may be used to elevate a defendant's current DWI offense from a misdemeanor to a gross misdemeanor under a new law increasing penalties for repeat offenders.
- Criminal statute of limitations may be lengthened and applied to crimes committed before the effective date of the change if prosecution of that crime was not time-barred when the new limitation took effect.
- A law allowing the docketing of court-ordered restitution orders as civil judgments may be applied to a defendant who committed the crime before the law took effect but was sentenced after that date.
- A law limiting the medical privilege in child abuse cases applies in prosecutions of crimes committed before the law took effect because it neither creates a new crime nor changes the standard of proof.
- New state procedures for imposing federal firearms restrictions on convicted offenders were allowed because (1) the provision did not create a new crime or impose a harsher punishment, and (2) the defendant was on constructive notice that he would be subject to even harsher federal restrictions if convicted for his ongoing criminal acts.
- A new law requiring a defendant to pay extradition costs was permissible because it sought to reimburse the state, not punish defendants.
- Laws permitting the civil commitment of sexually dangerous persons and requiring sex offenders to register their living address with law enforcement authorities are civil, regulatory laws that are not sufficiently punitive in purpose or effect so as to negate their civil label.
- A law allowing courts to extend an order for protection for up to 50 years is not an *ex post facto* law even though courts can consider events that occurred before passage of the law because orders for protection are civil remedies, not criminal penalties.

For more information: Contact legislative analyst Ben Johnson at 651-296-8957.

HOUSE RESEARCH | Short Subjects

Nina Manzi and Joel Michael

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Income Taxation of Residents and Nonresidents

How does Minnesota individual income taxation of residents and nonresidents differ?

States have broader constitutional power to tax residents than nonresidents. Minnesota, like most states, has chosen to exercise that authority and imposes more extensive or higher income taxes on its residents:

- **Residents** are subject to tax on all of their income—both that earned from Minnesota and non-Minnesota sources. Since another state may also tax non-Minnesota source income, a credit applies for taxes paid on that income to another state to avoid double taxation.
- **Nonresidents**, by contrast, are subject to tax only on the income they earn from Minnesota sources, such as from working in Minnesota or income derived from property and businesses located in Minnesota.
- **Part-year residents** pay tax under residency rules for the time they are residents and as nonresidents for the time they are nonresidents.

Who is a resident for income tax purposes?

Minnesota law provides two alternative tests or methods to determine if an individual is subject to tax as a resident:

- The **domicile test:** Does the individual intend to make Minnesota his or her permanent home?
- The **statutory or physical presence test:** Does the taxpayer have a Minnesota home and was he or she physically present in the state for more than half of the tax year?

What is domicile?

Domicile is the traditional or common law test that is widely used to determine residence for many legal purposes. It is determined by case law and focuses on intent: Does the taxpayer intend Minnesota to be his or her permanent home? If so, the taxpayer is a resident.

What evidence is used to show Minnesota is an individual's domicile?

Since the domicile test relies on the taxpayer's intent, the key question is what evidence the Department of Revenue (DOR), in its role as tax enforcement agency, and the courts will use to determine that intent. Since residency typically will result in higher taxes, DOR and the courts cannot simply accept taxpayers' assertions of their intent. A series of court decisions and a DOR administrative rule set out relevant factors used to determine taxpayer intent. The administrative rule lists 26 factors that are relevant to determining intent. These can be grouped into several categories:

- **Employment:** Where was the individual employed; was it permanent; in what state were they licensed; and so forth?

- **Homes and living arrangements:** Where was the individual's home; was it homesteaded; how long did he or she spend in the state; and so forth?
- **Business relationships:** Where did the individual primarily do business, own property, conduct other business, and so forth?
- **Social and civic relationships:** Where was the individual registered to vote, drive, hunt, and fish; did he or she maintain memberships and participate in social clubs and religious organizations; and so forth?
- **Miscellaneous factors:** Where did children attend school; was the individual a student; and so forth?

A law enacted in 2017 prohibits DOR and the courts from considering the location of one's lawyer, certified public accountant, or financial adviser in determining domicile, as well as where certain banking relationships were initiated. A 1999 law similarly prohibits considering where an individual makes charitable donations.

What is the statutory residency test?

Since 1987 Minnesota law has provided an alternative test in statute to determine the residency of taxpayers who are not domiciled in Minnesota. This test is based on physical presence in the state and has two elements:

- The individual must "maintain" a "place of abode" in Minnesota—i.e., a dwelling or home that he or she owns or occupies (e.g., he or she can rent it or share quarters with someone else, such as a relative).
- The individual is physically present in Minnesota for more than half of the tax year. This test is calculated or applied on a per-day basis.

What days count under the statutory residency test?

In general, any day in which the individual is physically present in Minnesota, for any part of the day counts as a Minnesota day. The administrative rule provides, however, that days in transit (e.g., changing planes or passing through in a train, bus, or car) between two points outside Minnesota do not count. Taxpayers with Minnesota residences, thus, need to maintain records (e.g., calendars, financial records, airline tickets, and so forth) to be able to demonstrate the number of days that do not count as Minnesota days.

What special rules apply under federal law?

Federal law provides special rules for certain categories of individuals—particularly members of the military and nonresident employees of various transportation sector businesses. For service members, federal law prohibits states from taking into account presence in the state under military orders in determining domicile or residency. Taxation of employees of various transport sectors (air, rail, and motor carriers and the merchant marine) is limited to the employees' states of residence. Federal law also prohibits states from taxing the qualified retirement income of nonresidents. These federal law rules preempt state law.

For more information: Contact legislative analyst Nina Manzi at 651-296-5204 or Joel Michael at 651-296-5057. Also see the House Research publication *Individual Income and Estate Taxation: Residence, Domicile, and Taxation*, September 2017.

HOUSE RESEARCH | **Short Subjects**

Danyell Punelli

Updated: September 2017

Disability Determinations for Public Assistance and Health Care

In order to qualify as disabled for federal and state cash assistance and health care programs, an individual must receive a disability determination by the U.S. Social Security Administration (SSA) or a State Medical Review Team (SMRT). The SMRT uses the same criteria for disability and blindness as the SSA but disregards income. The processes described below apply to disability determinations for Social Security Disability Insurance (SSDI), Supplemental Security Income (SSI), Medical Assistance (MA), and Minnesota Supplemental Assistance (MSA).

Who is considered disabled in the federal process?

Under the SSA definition of disability, an adult is considered disabled if he or she is unable to engage in any substantial gainful activity due to a medically determinable physical or mental impairment that is expected to result in death or to last continually for at least 12 months. An adult who is earning more than a certain monthly amount ($1,950 per month for blind individuals and $1,170 per month for nonblind disabled individuals in 2017) is considered to be engaging in substantial gainful activity.

A child under age 18 is considered by the SSA to be disabled if he or she has a medically determinable physical or mental impairment, which results in marked and severe functional limitations, that is expected to result in death or to last continually for at least 12 months.

What factors are considered in the determination process?

Disability applications made to the SSA are processed through local Social Security field offices and state agencies responsible for evaluating disability claims (in Minnesota, this is the Department of Employment and Economic Development). The disability evaluation is completed under a procedure called the "sequential evaluation process." For adults, this process requires sequential review of the claimant's current work activity, the severity of his or her impairments, a determination of whether his or her impairments meet or medically equal SSA impairment listings, the claimant's residual functional capacity, his or her past work, and his or her age, education, and work experience. For children applying for SSI, the process requires sequential review of the child's current work activity (if any), the severity of his or her impairments, and an assessment of whether his or her impairments result in marked and severe functional limitations. The evaluation stops if a person is found disabled or not disabled at any point in the process.

Once an individual has been found to be disabled, the local Social Security field office is responsible for verifying nonmedical eligibility requirements for the federal SSDI and SSI programs, which may include age, employment, marital status, citizenship/residency, and Social Security coverage information.

What is the process for proving a disability?

Each individual who files a disability claim is responsible for providing medical evidence showing that he or she has an impairment and the severity of the impairment. The SSA, with the claimant's permission, will help the claimant obtain his or her medical reports. The SSA has a Listing of Impairments that describes impairments severe enough to prevent an individual from engaging in any gainful activity. The SSA also has a list of compassionate allowances that quickly identify diseases and other medical conditions that invariably qualify under the Listing of Impairments.

If an individual disagrees with an initial determination, the individual can appeal the determination to the SSA.

For individuals found to be disabled by the SSA, the disability determination must be reviewed periodically (once every one to seven years).

What is the state process for determining disability?

In addition to the federal SSA process, there is an alternative state-level process for receiving a disability determination. However, most individuals applying for a disability determination through the state-level process should also be applying through the federal SSA process.

The SMRT is a unit at the state Department of Human Services (DHS) that determines disability in consultation with medical professionals. The SMRT reviews an individual's medical and social history to determine that individual's disability within the scope of SSA regulations (Minn. Rules 9505.0015, subp. 45). The primary function of the SMRT is certifying disability for people who are applying for, or appealing the denial of, SSA disability benefits so that they may qualify for MA if they have no other basis of eligibility. The SMRT disability determination process is intended to be quicker than the SSA process. However, individuals found to be disabled under either process must then meet all other program requirements in order to receive benefits through the relevant programs.

How do people prove they have a disability for the state process?

Each individual who files a state disability application must provide medical evidence showing that he or she has an impairment and the severity of the impairment. Applications are initially processed by the county where the applicant resides. Counties and tribes are responsible for helping applicants to obtain the necessary medical evidence. If an applicant does not have the necessary medical evidence, DHS will pay for any necessary medical evaluations if there is no other coverage. The county or tribe must then send all medical evidence to DHS to review for completeness. If an application is not complete, DHS must seek additional information from medical providers and the applicant to support the determination of disability where necessary (Minn. Stat. § 256.01, subd. 29). Once the application is complete, it is referred to the SMRT medical review agent for review and determination.

For individuals found to be disabled, SMRT disability determinations must be reviewed periodically (once every one to seven years). In fiscal year 2016, the SMRT received 5,001 referrals and the average length of time from referral to a decision was 98 days.

If an individual's disability application is denied by the SMRT, the individual can appeal that decision through the DHS fair hearing process.

For more information: Contact legislative analyst Danyell Punelli at 651-296-5058.

HOUSE RESEARCH | Short Subjects

Joel Michael

Updated: September 2017

Survey of State and Local Gasoline Taxes

This short subject shows state and local gasoline taxes in each state as of July 1, 2017. Because of the interrelationship in some states between per-gallon gasoline taxes and gasoline sales taxes, and between state and local gasoline taxes, a compilation of all such taxes is necessary to reflect each state's total tax burden. While all states impose per-gallon taxes, seven states also impose sales taxes (which fluctuate based on price), and 13 states allow local gas or sales taxes to be imposed. Minnesota's total tax burden on gasoline, which includes the 28.5-cent per-gallon excise tax and 0.1-cent inspection fee, places it 24th highest based on state taxes and 27th highest based on total state and local taxes. (The 2-cent per-gallon Petrofund cleanup fee did not apply on July 1, 2017; this fee is imposed periodically based on the balance in the fund.)

Gasoline taxes include state and local taxes

The columns in the table below represent the following:

- State excise tax: Per-gallon tax on gasoline imposed at the state level
- State sales tax: State retail sales tax applied to gasoline; in some states, the sales tax rate is prefigured and prepaid at the wholesale level rather than being calculated and paid at the pump
- Other state tax/fee: Leaking underground storage fees, inspection fees, various environmental fees; in some states, including Minnesota, these are "blink-on" taxes that are imposed whenever a specified fund reaches a certain level; the table applies these fees, if they applied on July 1, 2017
- Total state taxes: Combined per-gallon tax, sales tax, other state taxes and fees
- Local excise tax: Locally imposed per-gallon taxes in the largest city in the state
- Local sales tax: Local retail sales taxes that apply to gasoline in the largest city in the state
- Total local tax: Combined local gas taxes and sales taxes
- Total tax: Combined state and local taxes

For price-based taxes, U.S. Energy Information Administration price data for the week of July 3, 2017, was used for the applicable region, state, or city. This price was adjusted in those states that impose a sales tax on gasoline, but excludes state or federal per-gallon taxes from the taxable price.

Total State and Local Taxes on Gasoline as of July 1, 2017

	State Excise Tax	State Sales Tax	Other State Tax/Fee	Total State Tax	State Rank	Local Excise Tax	Local Sales Tax	Total Local Tax	Total State and Local Tax	Total Taxes Rank
Alabama	$0.180		$0.030	**$0.210**	39	$0.010		$0.010	$0.220	37
Alaska	0.080		0.010	**0.090**	50				0.090	50
Arizona	0.180		0.010	**0.190**	42				0.190	44
Arkansas	0.215		0.003	**0.218**	37				0.218	39
California	0.297	0.067	0.072	**0.436**	3		0.059	0.059	0.495	4

	State Excise Tax	State Sales Tax	Other State Tax/Fee	Total State Tax	State Rank	Local Excise Tax	Local Sales Tax	Total Local Tax	Total State and Local Tax	Total Taxes Rank
Colorado	0.220			**0.220**	36				0.220	37
Connecticut	0.250		0.133	**0.383**	7				0.383	11
Delaware	0.230		0.016	**0.246**	31				0.246	33
Florida	0.040	0.134	0.001	**0.175**	46	0.134		0.134	0.309	21
Georgia	0.263			**0.263**	28		0.095	0.095	0.358	12
Hawaii	0.160	0.107	0.054	**0.320**	17	0.165	0.013	0.178	0.499	3
Idaho	0.320		0.010	**0.330**	13				0.330	17
Illinois	0.190	0.130	0.011	**0.331**	12	0.110	0.069	0.179	0.510	2
Indiana	0.280	0.129	0.010	**0.419**	4				0.419	8
Iowa	0.305			**0.305**	18				0.305	22
Kansas	0.240		0.010	**0.250**	30				0.250	32
Kentucky	0.246		0.014	**0.260**	29				0.260	31
Louisiana	0.200		0.001	**0.201**	40				0.201	42
Maine	0.300			**0.300**	22				0.300	26
Maryland	0.338			**0.338**	11				0.338	16
Massachusetts	0.240		0.026	**0.266**	27				0.266	30
Michigan	0.263	0.122	0.009	**0.394**	6				0.394	10
Minnesota	**0.285**		**0.001**	**0.286**	**24**				**0.286**	**27**
Mississippi	0.180		0.004	**0.184**	45				0.184	47
Missouri	0.170		0.003	**0.173**	47				0.173	48
Montana	0.315		0.008	**0.323**	16				0.323	20
Nebraska	0.270		0.009	**0.279**	26				0.279	29
Nevada	0.230		0.008	**0.238**	34	0.214		0.214	0.452	6
New Hampshire	0.222		0.016	**0.238**	33				0.238	35
New Jersey	0.105	0.266	0.040	**0.411**	5				0.411	9
New Mexico	0.170		0.019	**0.189**	43				0.189	45
New York	0.081	0.088	0.162	**0.330**	14		0.112	0.112	0.442	7
North Carolina	0.340		0.003	**0.343**	9				0.343	14
North Dakota	0.230			**0.230**	35				0.230	36
Ohio	0.280			**0.280**	25				0.280	28
Oklahoma	0.160		0.010	**0.170**	48				0.170	49
Oregon	0.300			**0.300**	22	0.030		0.030	0.330	18
Pennsylvania	0.582		0.011	**0.593**	1				0.593	1
Rhode Island	0.330		0.010	**0.340**	10				0.340	15
South Carolina	0.180		0.008	**0.188**	44				0.188	46
South Dakota	0.280		0.020	**0.300**	21				0.300	25
Tennessee	0.200		0.014	**0.214**	38				0.214	40
Texas	0.200			**0.200**	41				0.200	43
Utah	0.294		0.007	**0.301**	20				0.301	24
Vermont	0.121		0.184	**0.305**	19				0.305	23
Virginia	0.162		0.006	**0.168**	49	0.034		0.034	0.202	41
Washington	0.494			**0.494**	2				0.494	5
West Virginia	0.205		0.152	**0.357**	8				0.357	13
Wisconsin	0.309		0.020	**0.329**	15				0.329	19
Wyoming	0.230		0.010	**0.240**	32				0.240	34

Note: The table does not include special tax rates for alcohol-gasoline blends or for gasoline used in commercial vehicles.
Sources: Federation of Tax Administrators; American Petroleum Institute; U.S. Energy Information Administration; and state revenue agency websites.

For more information: Contact legislative analyst Joel Michael at joel.michael@house.mn.

Joel Michael

Updated: September 2017

Minnesota Research and Development Tax Credit

What is the Minnesota research and development credit?

Minnesota allows businesses conducting research and development to claim research credits against their corporate franchise taxes or individual income taxes (for pass-through tax entities, such as LLCs and S corporations). The credit's computations are based on definitions under the federal tax credit for increasing research activities, except the research must be done in Minnesota.

What is the policy rationale for the research credit?

There are two basic rationales for research credits:

- It is widely recognized that businesses under-invest in research and development, because some of benefits of research go to society generally and cannot be captured solely for the business and its owners. Others can copy or build on their research, siphoning off some of the benefit. Research credits, including the federal and Minnesota credits, help overcome this barrier by providing tax benefits for qualifying research.

- State credits, such as Minnesota's, have a general "economic development" purpose—that is, they seek to encourage businesses to do more research in Minnesota to create jobs and other economic benefits for Minnesota residents. The credits help the state to compete for research investment by businesses. Some published academic research supports the view that state credits help to achieve this end.

What types of research expenses qualify?

Under the federal definition used by Minnesota, "qualifying research expenses" must be made to discover technological information that is applied to develop a new or improved business component (e.g., a product or process). The expenditures could be intended to improve quality, performance, reliability or something similar. The expenditures typically are for wages of the business's employees, supplies purchased, or amounts paid to contractors to do research for the business. Expenditures on equipment do not qualify, but instead qualify for separate expensing benefits under federal and state tax law.

Is the credit incremental?

The credit applies to research over a base amount. The federal definition of "qualified research expenses" is limited to the *increase* in research expenditures over a "base amount," making the credit an "incremental" credit. This base amount is expressed as a percentage of the business's gross receipts (Minnesota gross receipts for the Minnesota credit). The percentage is determined for each business based on the percentage its research spending was of its 1984-1988 gross receipts (for the businesses starting up after 1988, 3 percent is used) with a maximum of 16 percent. This incremental credit structure is intended to make the credit more cost effective in stimulating research by disallowing the credit for the normal or basic research the business would otherwise do. For example, a business whose research is a constant percentage of its gross receipts would not be allowed the credit, because it had not increased its research "effort."

50-percent limit applies. The credit cannot exceed 50 percent of the business's research expenditures and many businesses' credits are determined under that rule, because their research is well above their base amount. This typically occurs for Minnesota-based multistate businesses, because their base amounts are calculated using Minnesota gross receipts, a relatively low amount, while their Minnesota research often relates to their entire operations. Since these businesses qualify for a credit based on 50 percent of their research spending, their credits are really not incremental or dependent on increasing their research.

How is the credit computed?

The Minnesota credit has a two-tiered rate structure; a higher rate (10 percent) applies to the first $2 million of Minnesota qualified research expenses and a lower rate (4 percent) for the amount over that. The 2017 Legislature increased the lower tier rate to 4 percent from 2.5 percent, effective for tax year 2017.

Is the credit refundable?

The credit is not refundable; it cannot exceed the liability for tax. (For three tax years, 2010 through 2012, the credit was refundable.) However, a unitary business (that is, a business with two or more corporations or other entities that are part of one business) may allocate the credit among its individual corporations to fully use the credit. If the credit still exceeds the liability for tax, it can be carried over and used to reduce taxes in later tax years (for up to 15 tax years).

How much does the credit reduce tax revenues?

The Minnesota Department of Revenue's (DOR) *Tax Expenditure Budget* (February 2016) estimated that for fiscal year 2017, $50.2 million in corporate franchise tax credits will be allowed and $18.5 million in individual income tax credits. The *Tax Expenditure Budget* also reports that expensing of research and development costs provides tax expenditures for fiscal year 2017 of $16 million (under the corporate franchise tax) and $600,000 (under the individual income tax) for research and development expenditures.

How does Minnesota's credit compare to credits in other states?

Minnesota was the first state to enact a research and development credit in 1981. Most states with corporate taxes now have credits for some types of research expenditures. These credits vary considerably and it is difficult to generalize about them. Some states, like Minnesota, follow the basic federal credit. Other states use different—both more expansive or narrower—definitions of the types of research that qualify for their credits. Some states target their credits to specific types of businesses (e.g., high technology companies), while others follow the alternative, as well as the basic, federal research credit rules. Several states have credit rates that are higher than Minnesota's first tier (10 percent) rate and most allow rates higher than second tier (4 percent) rate. Finally, some state credits are not incremental, but rather apply to all qualifying research done in the state.

For more information: Contact legislative analyst Joel Michael at joel.michael@house.mn.

HOUSE RESEARCH | Short Subjects

Ben Johnson

September 2017

Fireworks for Personal Use: The Laws in Minnesota and Surrounding States

Minnesota and its surrounding states—Iowa, North Dakota, South Dakota, and Wisconsin—have varying laws on the personal use of fireworks. State laws generally regulate who can sell, buy, and use different types of fireworks.

Comparison of State Laws					
Policy	**MN**	**IA**	**ND**	**SD**	**WI**
Novelties (sparklers, snakes, smoke devices) are generally legal to sell, buy, and use	X	X	X	X	X
Most consumer-grade fireworks (firecrackers, etc.) are legal for adults to use around the Fourth of July and New Year's Eve		X	X	X	
Most bottle rockets are expressly prohibited			X		
Consumer-grade fireworks are legal to use only with a permit					X
State residents, subject to age restrictions, can purchase consumer-grade fireworks around the Fourth of July and New Year's Eve		X	X	X	
Nonresidents can purchase consumer-grade fireworks only around the Fourth of July and New Year's Eve		X		X	
Restrictions on sales to nonresidents are identical to restrictions on sales to residents	X	X			
Nonresidents can purchase consumer-grade fireworks at any time under the assumption that the fireworks will be taken out of the state			X		X
Municipalities can adopt additional restrictions, including prohibiting the use of consumer-grade fireworks.		X	X	X	X

Minnesota

Personal use of consumer-grade fireworks in Minnesota is illegal. (Minn. Stat. §§ 624.20–624.25) "Fireworks" in Minnesota include firecrackers, bottle rockets, roman candles, and similar items. The definition does not include novelty items like sparklers, snakes, or smoke devices. Novelty items can only be sold to adults, and a local unit of government can impose a license fee on their sale.

Most violations are a misdemeanor for which a court can impose a sentence of 90 days in jail, a $1,000 fine, or both. Violations involving a large amount of fireworks (35 pounds gross container weight or more) can be punished as a gross misdemeanor with a maximum sentence of one year in jail, a $3,000 fine, or both.

Iowa

Iowa legalized the sale and use of consumer fireworks in 2017. (Iowa Code 2017, chs. 100.19–100.19A)

The law, reversing a ban dating to 1938, adopted the definitions used by the American Pyrotechnics Association. Both "consumer fireworks" (firecrackers, bottle rockets, roman candles, etc.) and "novelties" (sparklers, snakes, and smoke devices) are legal.

Purchasers must be 18, and it is only legal to buy and use consumer fireworks from June 1 through July 8, and December 10 through January 3.

Cities can limit or prohibit the use of fireworks, but cannot prohibit the sale of fireworks by licensed sellers. Some cities have also made it illegal to set off fireworks if a person has been drinking and has an alcohol concentration that would make it illegal to operate a motor vehicle.

North Dakota

North Dakota permits the sale and use of most consumer-grade fireworks from June 27 through July 5, and December 26 through January 1. (NDCC 23-15-01 through 23-15-06)

The list of legal fireworks is similar to the American Pyrotechnics Association definition of consumer fireworks, but does not include most bottle rockets. Purchasers must be at least 12 years old, and local governments can prohibit or regulate the use of fireworks.

North Dakota's law does not apply to the sale of any kind of fireworks for shipment directly out of the state. In practice, this means that nonresidents may purchase fireworks at any time and sellers require identification to show that a purchaser is from out of state.

South Dakota

Consumer fireworks, as defined by the American Pyrotechnics Association, are legal in South Dakota within specific date ranges. Fireworks can only be set off in South Dakota from June 27 through the first Sunday after the Fourth of July, and from December 28 through January 1. (SDCL 34-37-1 through 34-37-20)

Sellers can obtain two licenses: one for selling to South Dakota residents only and one that permits sales to nonresidents. Residents can purchase fireworks from June 27 through July 5, and December 28 through January 1. Sellers can obtain one or both licenses for sales to nonresidents covering May 1 through July 5; or July 6 through August 31, and December 28 through January 1.

Municipalities can limit or prohibit the use of consumer fireworks. Counties can regulate or prohibit the use of fireworks outside the boundaries of a municipality where the fire danger is extreme. County regulations do not apply after July 2.

Wisconsin

Wisconsin permits the use and sale of novelties, but limits the sale and use of other fireworks. (Wis. Stat. § 167.10)

State residents must have a permit to purchase, possess, or use consumer fireworks. A permit is only valid in the municipality that issued it, and it must be provided to the local fire or law enforcement official at least two days before authorized use.

Nonresidents can purchase consumer fireworks in Wisconsin, but cannot use them in the state without a permit.

Local governments can establish additional restrictions or prohibitions. They cannot ban the right to transport legal fireworks as long as a person transporting fireworks does not remain in a municipality for more than 12 hours.

For more information: Contact legislative analyst Ben Johnson at 651-296-8957.

Nathan Hopkins September 2017

Retention of Government Records

Government entities in Minnesota are required to create records documenting their official activities and maintain those records pursuant to an approved retention schedule. Ultimately, all records will either be permanently retained by a government entity, destroyed, or transferred to the State Archives.

A government entity must create and maintain records of its official activities

All officers and agencies within state and local government are required to create and preserve all records necessary to provide complete and accurate knowledge of their official activities. The term "official activities" refers to the government entity's formal actions, decisions, and transactions. A government entity is not required to keep records documenting the deliberations or thought processes that underlie, but are not themselves part of, an official activity.

Records may be any type of physical or digital media (documents, maps, photographs, recordings, etc.). Reproductions may be maintained instead of the original documents, and it is not necessary for an entity to retain multiple copies of the same record. "Electronic records" (those existing only in digital format) are permitted and subject to the same statutory requirements as physical records. Also, all government records must be kept in an arrangement and condition that makes them easily accessible for convenient use by the public.

Ultimately, the chief administrative officer of a government entity is responsible for maintaining the entity's records. But individual government officials must, upon leaving office, deliver all records in their custody to their successors in office.

The records must be preserved according to a retention schedule that has been approved by the Records Disposition Panel

A government entity must adopt a retention schedule that covers all of the entity's records and states how long each type of record must be preserved. Document retention periods may be expressed in terms of time ("retain for four years" or "retain permanently"), in terms of a certain event ("retain until audit"), or a combination of the two ("retain six months after audit").

Before a government entity is permitted to adopt a retention schedule, however, the schedule must be reviewed and unanimously approved by the state's Records Disposition Panel. The Records Disposition Panel oversees the disposition of government records statewide. Its members include the attorney general, the director of the Minnesota Historical Society, the legislative auditor in the case of state records, and the state auditor in the case of local records. The panel reviews and evaluates proposed retention schedules for legal, fiscal, and historical considerations, and can approve a schedule as submitted or request changes and further review.

A government entity may choose to create an entirely new retention schedule based on an audit of the entity's existing records. Usually, however, an entity will use or adapt a model schedule that has been pre-approved by the Records Disposition Panel and made available by the state archives.

After the applicable retention period has expired, records must be archived or destroyed

When a record is no longer in use and its retention period has expired, the record must be disposed of in the manner prescribed by the retention schedule. Other than an approved retention schedule, the only way that a government entity may dispose of a record is if it applies for and receives a special order from the Records Disposition Panel. The unauthorized disposal of a government record is a misdemeanor offense, and a government entity must maintain a list of the records it has disposed of.

A government record may only be disposed of in two ways. If the record has some historical value, it may be transferred to the state archives of the Minnesota Historical Society. Other valueless records must be destroyed.

There is no mandated method for record destruction. However, records containing data classified as "not public" under the Minnesota Data Practices Act must be destroyed in a way that prevents their contents from being determined. This may entail the shredding of physical media or sanitization of electronic storage devices.

Criminal penalties exist for the unauthorized destruction of records

The unauthorized destruction of government records is a misdemeanor offense. A person who intentionally destroys a government record, or a public employee who knowingly permits someone to do so, may be subject to criminal liability.

The attorney general is also empowered to petition a court to return or "replevin" government records that have been unlawfully transferred or removed out of their proper office.

The legislature may exempt certain records from these general rules

The legislature may exempt certain types of government records from this general framework. For example, a county auditor is permitted—with the consent and approval of the county board and a district court judge—to destroy certain financial documents within specified periods of time. Other exemptions exist in statute, especially for highly sensitive government records such as those relating to juvenile criminal offenders and data submitted to the criminal gang investigative data system.

For more information: Contact legislative analyst Nathan Hopkins at 651-296-5056.

Sean Williams and Joel Michael September 2017

Minnesota's Tax Credit and Deduction for 529 Contributions

What federal and state tax advantages are available to Minnesotans with 529 plans?

Investment income on 529 accounts is exempt from both federal and Minnesota income taxes, if the income is used for qualifying higher education expenses. Qualifying expenses include tuition, fees, room and board, books, and some other education expenses. Investment income on the accounts that is used for nonqualifying purposes is taxed as ordinary income, plus a 10 percent penalty. 529 plans also provide special estate and gift tax benefits. Beginning in tax year 2017, Minnesota will allow both a nonrefundable income tax credit and an income tax subtraction for contributions to any state's 529 plan.

Minnesota's Section 529 Plan Credit

How does Minnesota's 529 Plan Credit work?

Minnesota's Section 529 Plan Credit is a nonrefundable credit for contributions to a college savings account established by any state under section 529 of the Internal Revenue Code. The credit equals **50 percent of contributions**, up to a **maximum of $500.** The maximum credit is phased out as income increases with varying thresholds for individuals and married joint filers.

What is a nonrefundable credit?

A nonrefundable credit may be used only to offset Minnesota income tax liability; an individual benefits only to the extent of his or her tax liability. An individual with no state income tax liability does not benefit from the credit.

How is the maximum credit phased out?

For individual filers, the maximum credit is phased out by 2 percent of federal adjusted gross income (FAGI) in excess of $75,000. The credit is fully phased out for individual filers at $100,000 of FAGI.

FAGI is a broad definition of income that includes most kinds of income. FAGI is calculated after allowance of business expenses and retirement contributions, but before reductions for itemized or standard subtractions and dependent and personal exemptions.

Income Range (FAGI)	Maximum Credit (Single Filers)
Up to $75,000	$500
$75,001 to $100,000	$500 minus 2 percent of AGI in excess of $75,000
$100,001 and above	0

For married couples filing joint returns, the maximum credit is phased out in two stages and is fully phased out when AGI reaches $160,000.

Income Range (FAGI)	Maximum Credit (Married Couples Filing Joint Returns)
Up to $75,000	$500
$75,001 to $100,000	$500 minus 1 percent of AGI in excess of $75,000
$100,001 to $135,000	$250
$135,001 to $160,000	$250 minus 1 percent of AGI in excess of $135,000
$160,001 and above	$0

Minnesota's Section 529 Plan Subtraction

How does Minnesota's 529 Plan subtraction work?

Minnesota additionally offers a subtraction for contributions to any state's section 529 Plan. A taxpayer may subtract up to $1,500 ($3,000 for married joint filers) of contributions to any state's section 529 college savings plan or prepaid tuition plan. The subtraction excludes any amounts that are rolled-over from other college savings plans. Taxpayers who claim the credit cannot take the subtraction.

What are the policy differences between the credit and the subtraction?

(1) For the same contribution amount, the credit will typically provide a larger tax benefit than the subtraction. A credit reduces tax liability dollar-for-dollar, while the value of a subtraction depends upon the taxpayer's marginal tax rate. The maximum benefit of the subtraction for a married joint filer is $295.50 (top tax rate of 9.85% * $3,000 maximum contribution) compared with $500 under the credit for a smaller contribution ($1,000). Individuals in the credit phase-out range will need to compute the tax benefits under both the credit and subtraction to determine which is higher. Typically it will be the credit, but not always.

(2) Income limits apply to the credit, but not the subtraction. Single filers who earn more than $100,000—and married couples filing jointly who earn more than $160,000—are not eligible for the credit. Any taxpayer who makes a qualifying contribution to a section 529 plan may claim the subtraction, without regard to their income.

(3) The credit can result in a marriage penalty or bonus, while the subtraction can only provide a bonus. (For more information, see the House Research Information Brief, The Minnesota Income Tax Marriage Credit.)

What tax benefits do other states offer for 529 plan contributions?

- 29 states other than Minnesota and the District of Columbia allowed **tax deductions** in tax year 2016.
- Three states other than Minnesota (Indiana, Vermont, and Utah) offered **credits** for 529 plan contributions.
- Eight states with income taxes **don't offer 529 plan deductions or credits.**
- Most states limit deductions to contributions to the state's own plan, but seven states (including Minnesota) provide **deductions for contributions to any state plan.**

What are the revenue reductions due to the credit and subtraction?

The Minnesota Department of Revenue estimates that the credit and subtraction result in revenue reductions of the following amounts (in millions):

Fiscal Year	Credit	Subtraction	Total
2018	$7.5	$2.5	$10.0
2019	7.8	2.6	10.4
2020	8.0	2.6	10.6
2021	8.3	2.7	11.0

For more information: Contact legislative analyst Sean Williams at 651-296-5053 or Joel Michael at 651-296-5057. See also the House Research short subject, *Saving for College: 529 Plans*, September 2017.

Sean Williams and Nina Manzi **September 2017**

The Minnesota Student Loan Tax Credit

What is the student loan tax credit?

The Minnesota Student Loan Tax Credit is a nonrefundable credit for payments of principal and interest on eligible higher education loans. Individuals with one or more qualified education loans may claim the credit to reduce their Minnesota income tax liability by up to $500. The credit was enacted by the 2017 Legislature, and takes effect beginning in tax year 2017.

What is a nonrefundable credit?

A nonrefundable credit may be used only to offset Minnesota income tax liability; it cannot reduce tax liability to less than zero. An individual with no state income tax liability does not benefit from the credit.

Who is eligible for the credit?

An individual with one or more qualified education loans may claim the credit. For married couples, each spouse is eligible for the credit. Individuals who are not full- or part-year residents of Minnesota may not claim the credit.

There is no limit on the number of years in which a taxpayer may claim the credit; the taxpayer may claim the credit any year the taxpayer made qualified education loan payments.

Which higher education loan payments are counted toward the credit?

"Eligible loan payments" are payments of principal and interest on "qualified education loans" incurred on behalf of the eligible individual. The loan payments must be related to an undergraduate or graduate degree program at a public or nonprofit postsecondary institution. If the institution is located in Minnesota, it must be eligible for the Minnesota State Grant program; if the institution is in another state, it must participate in the federal Pell Grant program.

"Qualified education loan" is defined by reference to the Internal Revenue Code. Although the federal definition includes both parent loans and the loans of a taxpayer's spouse, the Minnesota Student Loan Credit specifically excludes those loans from eligibility for the credit, so that only loans an individual takes out for his or her own education are eligible.

How is the credit calculated?

The initial credit amount depends on the amount of the individual's eligible loan payments and federal adjusted gross income (FAGI), subject to three limits. FAGI is a federal definition of income that includes most kinds of cash income, including wages, salaries, tips, taxable interest, dividends, capital gains, and business income.

Loan payments are reduced by 10 percent of FAGI in excess of $10,000. This means that, as income increases, the initial credit amount decreases. The formula for the initial credit is as follows:

$$Student\ Loan\ Credit = Eligible\ Loan\ Payments - .1 * (FAGI\ in\ excess\ of\ \$10{,}000)$$

How is the credit limited?

An individual's credit amount is subject to three limits. The credit cannot be more than:

1. **The Maximum Credit:** $500;
2. **The Individual's Earned Income:** wages, salaries, tips, and net earnings from self-employment; or
3. **10% of the Individual's Original Balance, plus Interest paid in the tax year.**

Since the credit is **nonrefundable**, the credit is also implicitly limited to the individual's income tax liability.

How could a credit vary by income and loan payment amounts?

Estimated Credit by FAGI and Eligible Loan Payments

(Assumes taxpayer is not limited by earned income, or the original loan balance)

Income (FAGI)	$2,750 in Loan Payments	$7,500 in Loan Payments
$15,000	$500	$500
$35,000	$250	$500
$55,000	$0	$500
$75,000	$0	$500
$95,000	$0	$0

Example Calculation

Example Taxpayer Situation:

- Eligible Loan Payments: $4,700 ($1,800 interest, $2,900 principal)
- Income: $55,000 in FAGI and $45,000 in Earned Income
- Original Loan Value: $38,000

The initial credit equals $200—eligible loan payments, reduced by 10 percent of FAGI in excess of $10,000.

- Federal adjusted gross income minus $10,000 = $45,000
- 10 percent of $45,000 = $4,500
- $4,700 in payments minus $4,500 = $200

The initial credit is subject to three limits, none of which apply to the example:

- **Maximum Credit:** $500
- **The Individual's Earned Income:** $45,000
- **10 percent of the Individual's Original Balance, plus Interest paid in the tax year:** $5,600 ($3,800 plus $1,800 in interest paid)

How much is the credit estimated to cost?

The Minnesota Department of Revenue (DOR) estimated that 65,000 returns will claim the credit in tax year 2017, with an average credit of $414. DOR estimated the credit would result in the following revenue reductions per fiscal year:

- Fiscal Year 2018: $26.9 million
- Fiscal Year 2019: $27.8 million
- Fiscal Year 2020: $28.8 million
- Fiscal Year 2021: $29.8 million

For more information: Contact legislative analyst Sean Williams at 651-296-5053. Also see the House Research web page *Income Tax Benefits for Higher Education Costs*, http://www.house.leg.state.mn.us/hrd/issinfo/hetaxben.aspx?src=20.

HOUSE RESEARCH | Short Subjects

Sean Williams and Joel Michael

Updated: September 2017

Saving for College: 529 Plans

What are 529 plans?

529 college savings plans allow parents and others (e.g., grandparents or the student him or herself) to save for college costs in accounts that qualify for special tax treatment. The plans are operated by states. (Higher education institutions may operate pre-paid tuition plans, which are not discussed in this short subject.) Each account has an "owner" (usually the person contributing) and a "beneficiary" (the individual whose education costs will be paid). The owner retains ownership and control of the account and can change the beneficiary. Under federal law, investment of the accounts must be done by the state or the investment company it contracts with to operate its plan, but account owners can choose from among state plans offering an array of investment options and have limited authority to transfer funds once per year among plans. Thus, they indirectly have some investment control.

Do income or contribution limits apply to the plans?

Unlike most other tax incentives and aid programs for higher education, no income limits apply to 529 plans. Even the highest income families qualify to use them. Contributions must be made in cash. Each state plan sets its contribution limit, but federal law limits this to the amount necessary to provide for the qualifying higher education expenses of the beneficiary. Most states set this limit higher than $300,000. Minnesota limits account balances to $425,000.

What tax benefits are available for 529 plans?

Investment income on 529 accounts is exempt from both federal and Minnesota income taxes, if the income is used for qualifying higher education expenses. Qualifying expenses include tuition, fees, room and board, books, and some other education expenses. Investment income on the accounts that is used for nonqualifying purposes is taxed as ordinary income, plus a 10 percent penalty. 529 plans also provide special estate and gift tax benefits. Beginning in tax year 2017, Minnesota will allow both a nonrefundable income tax credit and an income tax subtraction for contributions to any state's 529 plan.

Does Minnesota have a 529 plan?

Yes, 1997 legislation authorized the Minnesota College Savings Plan, and the plan began operating in 2001. TIAA-CREF, a large national financial institution, provides administration and investment management services for the plan. As of December 31, 2016, the Minnesota plan had about $1.24 billion in assets and 63,839 accounts. Nationally, at the end of December 2016, total 529 plan assets were about $275 billion for about 12.9 million accounts.

Can a Minnesotan participate in other state plans?

Yes, most state plans allow nonresidents to participate, although special preferences may be provided for residents. The federal and Minnesota tax benefits apply equally to investments in other state plans. Although precise evidence is not available, it appears that Minnesota residents have invested more money in other states' 529 plans than in the Minnesota College Savings Plan.

Who participates in 529 plans?

Available evidence suggests that most 529 plan assets are held by families in the top income groups. The table below shows the distribution of 529 plan and Education Savings Account (ESA) assets by income group, based on data from the Federal Reserve's 2013 Survey of Consumer Finance. About 77.7 percent of these assets are held by the top population decile (the 10 percent of the population with the highest incomes) and about 87 percent by the top quintile.

529 Plan and ESA Assets by Income of Account Owners
(amounts in 2013 dollars)

Income group	Median income*	529 plan and ESA assets (millions of $)	% of total assets	% of households with assets
1st quintile (0 – 20%)	$13,189	$383	0.2%	0.2%
2nd quintile (20% – 40%)	27,392	1,810	1.0%	0.5%
3rd quintile (40% – 60%)	45,654	5,248	2.9%	0.9%
4th quintile (60% – 80%)	76,090	16,449	8.9%	2.8%
9th decile (80% – 90%)	121,947	17,028	9.3%	7.4%
Top decile (90% – 100%)	230,502	142,972	77.7%	14.0%
Total	**$46,668**	**$183,890**	**100%**	**3.0%**

* Median income of all households in income group, not just those with assets.

Source: House Research calculations using Federal Reserve Board, *Survey of Consumer Finance* (2013). Estimates are less precise for subgroups, particularly those with fewer assets.

Do other states provide additional state tax benefits for 529 plans?

Many states with income taxes provide deductions or credits for contributions to 529 plans. In tax year 2016, 29 states and the District of Columbia allowed tax deductions and three states (Indiana, Vermont, and Utah), credits for 529 plan contributions. Minnesota will offer a tax credit and deduction for 529 contributions beginning in tax year 2017.

Nevada and Illinois allow a credit for employers who make matching contributions for their employees. Eight states with income taxes do not provide 529 plan deductions or credits. Most states limit deductions to contributions to the state's own plan, but six states provide deductions for contributions to any state plan. Starting in tax year 2017, Minnesota's deduction and credit will be available for contributions to any state plan. Most of the deductions and all three credits are subject to dollar caps; four states allow deduction of the full amount contributed.

Do states provide other incentives for participation?

Nine states provide ongoing matching grants of some type; most are subject to income limits. Five states offer a onetime grant upon the opening of an account or the birth of the child. Three states provide college scholarships to 529 beneficiaries. Minnesota, Michigan, and Missouri previously operated but discontinued matching grant programs. Matching grants are not subject to federal tax, while state tax deductions or credits reduce the federal itemized deduction for state income taxes, diluting their benefits to many recipients by 10 percent to 39.6 percent.

For more information: Contact legislative analyst Sean Williams at 651-296-5053 or Joel Michael at 651-296-5057. See also House Research short subject, *Minnesota's Tax Credit and Deduction for 529 Contributions*, September 2017.

Nina Manzi and Janelle Taylor Updated: October 2017

Minnesota's Nongame Wildlife Checkoff

What is the nongame wildlife checkoff?

Minnesota's nongame wildlife checkoff allows individuals to make contributions on their individual income tax or property tax refund return to the state's nongame wildlife fund. Corporate taxpayers may also contribute on their corporate franchise tax returns. Taxpayers who wish to contribute fill in the amount of their contribution on their income tax or property tax refund form. The amount of the contribution is then either added to their tax due or subtracted from their refund. The checkoff was enacted and first appeared on tax forms in 1980.

How much do taxpayers contribute to the nongame wildlife checkoff?

On tax year 2015 returns, filed in calendar year 2016, over 52,000 individuals used the nongame wildlife checkoff to contribute over $900,000 to the nongame wildlife fund on their individual income tax or property tax refund forms. The average contribution was about $18. About 1.4 percent of all filers made contributions—1.5 percent of income tax filers and 1.1 percent of property tax refund filers. Since 1998, taxpayers have contributed about $1 million per year through the checkoff, but the share of filers making contributions has trended downward from 3 percent in the early 2000s to 1.4 percent in 2015.

Nongame Wildlife Checkoff Contributions, tax years 1998 to 2015

Tax Year	% contributing	$ contributed	Average contribution
1998	2.9%	$972,996	$11.41
1999	2.0	1,003,721	12.01
2000	2.9	1,028,790	12.16
2001	3.0	1,134,319	13.23
2002	3.0	1,160,518	13.07
2003	3.0	1,154,574	13.11
2004	2.8	1,171,942	13.75
2005	2.6	1,098,310	14.12
2006	2.1	1,030,219	15.31
2007	2.1	1,075,785	15.34
2008	2.1	1,093,113	15.46
2009	2.1	1,086,545	15.72
2010	1.9	1,061,164	17.09
2011	1.9	1,052,251	16.12
2012	1.8	1,049,809	17.03
2013	1.7	1,029,906	17.62
2014	1.5	963,959	17.33
2015	1.4	932,889	17.68

Source: Minnesota Department of Revenue

In calendar year 2015, the Department of Natural Resources (DNR) received $977,357 in contributions through the checkoff. This total differs from the amount shown in the table above because it represents amounts on all returns processed by the Department of Revenue in calendar year 2015, including tax year 2012, 2013, and 2014 individual income tax returns, and 2013 and 2014 property tax refund returns.

What are contributions to the checkoff used for?

Contributions to the nongame wildlife checkoff go into the nongame wildlife account and are appropriated to the DNR for the benefit of nongame wildlife through the nongame wildlife program. Donations from the nongame wildlife checkoff are matched equally by the critical habitat matching account from funds raised by the sale of conservation license plates.

The nongame wildlife program focuses on nongame wildlife species that have been identified as being rare, declining, or vulnerable in the state; these species are known as "species of greatest conservation need." The program supports four regional wildlife specialists and other staff who work toward supporting the program's mission to "protect, maintain, enhance, and restore native nongame wildlife resources for their intrinsic values, ecosystem functions, and long term benefits."

What are some recent projects funded through the nongame wildlife checkoff?

The nongame wildlife program has supported a number of projects in recent years, including the eagle and falcon webcams and Project WILD program, which is an environmental and conservation education program designed to train K-12 and other youth and environmental educators on how to develop awareness of and foster responsible actions towards wildlife and related natural resources. Other projects have included surveys, management, and educational efforts benefiting loons, bald eagles, golden eagles, frogs, white pelicans, ospreys, Blanding's turtles, wood turtles, butterflies, and dragonflies, and the acquisition or donation of lands designated as wildlife management areas and aquatic management areas across the state to provide habitat benefiting both game and nongame wildlife species.

How many other states have a nongame wildlife checkoff?

In tax year 2016, 35 of the 42 states (and the District of Columbia) that have an individual income tax also have a nongame wildlife or similar checkoff. Most states have more than one checkoff; Oregon has the most, with 29 directed toward a wide range of purposes. Only two states offer only the nongame wildlife checkoff—Minnesota and Nebraska.

For more information: Contact legislative analyst Nina Manzi at 651-296-5204 or Janelle Taylor at 651-296-5039.

Christopher Kleman

Updated: October 2017

Online Gambling: Federal Law

Federal law may limit state authority over online gambling

Internet gambling has been historically regulated at the federal level. Federal law prohibits and regulates certain types of betting, as well as policing some aspects of interstate gambling. In general, aside from sports betting, states may authorize any form of online gambling.

Wire Act applies to telecommunication use for gambling

The Wire Act was originally passed in 1961 to police illegal bookmaking operations associated with organized crime syndicates, and was focused on the use of interstate communications for the purpose of placing wagers. 18 U.S.C. § 1084. As time went on however, questions arose regarding the applicability of the law to all online gambling operations or just those that conduct sports betting.

In 2002, the U.S. Court of Appeals for the Fifth Circuit affirmed a lower court holding that the Wire Act only applied to sports betting. *In re Mastercard International*, 313 F.3d 257 (2002). Yet in 2007, in the tenth circuit, the U.S. District Court for the District of Utah rejected the fifth circuit's ruling and held that the Wire Act was not solely limited to sports betting. *U.S. v Lombardo*, 639 F. Supp. 2d 1271 (2007). Until 2011, the U.S. Department of Justice (DOJ) maintained that the law prohibited all forms of internet gambling.

In December 2011, the DOJ reversed course and issued a memorandum opinion on the Wire Act, stating that interstate transmissions "of wire communications that do not relate to a 'sporting event or contest' fall outside the reach of the Wire Act." This was a significant change in the DOJ's position, which had previously held that the law prohibited all forms of internet gambling. In response, Delaware, Nevada, and New Jersey passed laws authorizing some form of internet gambling, including online blackjack and poker, and various casino games.

The 2011 DOJ opinion does not have the force of law, but it is unclear whether others (besides the DOJ) would have standing to file legal challenges to enforce the Wire Act in a broader and more prohibitive manner.

Professional and Amateur Sports Protection Act governs sports betting

The Professional and Amateur Sports Protection Act (PASPA) is a complementary federal law aimed at ensuring the integrity of professional and collegiate sporting events by prohibiting states from authorizing wagering on those events. 28 U.S.C. § 3701-04. When the bill was under consideration by Congress, a handful of states, such as Nevada, already had sports wagering systems set up. The law grandfathered in these states, allowing them to continue their activity.

New Jersey, one of the states that was allowed to grandfather in its sports betting system, chose not to at the time, but later passed a series of laws seeking to establish sports wagering in some form. These laws have been subject to legal challenge. Most recently, the U.S. Supreme Court has agreed to hear the state's appeal from an adverse 2016 ruling by the third circuit court of appeals. *NCAA v. Christie*, 832 F.3d 389 (2016).

Interstate Horse Racing Act permits some interstate wagers on horse racing

The Interstate Horse Racing Act regulates wagers on horse racing. 15 U.S.C. § 3001-07. It was amended in 2000 to expressly allow pari-mutuel wagers transmitted between states by the use of phone or other electronic media. This law requires both the bettor and the betting operator to be in states that authorize betting on horse races. The World Trade Organization found this law to discriminate against off-shore betting operators, and the DOJ has asserted that the Wire Act prohibits all cross-border horse racing, but has never taken enforcement action associated with this. In 2016, the Minnesota Legislature authorized advanced deposit wagering, which allows people to remotely place bets on horse races in other states.

Unlawful Internet Gaming Enforcement Act regulates gambling-related payments

In 2006 Congress passed the Unlawful Internet Gaming Enforcement Act (UIGEA). 31 U.S.C. § 5361. This law was aimed at regulating the payment processes associated with gambling, rather than gambling itself. The law prohibits a gambling business from accepting payment from a person engaged in "unlawful internet gambling," which is defined as placing, receiving, or transmitting a bet in violation of state, tribal, or federal law. Notably, the UIGEA excludes fantasy sports from its definition of "bet or wager," thus allowing fantasy sports operators to bypass the law's prohibitions.

The legality of daily fantasy sports contests under PASPA

In recent years, the legality of daily fantasy sports (DFS) contests under various state and federal laws has come into question. While DFS contests most likely do not violate the UIGEA, as explained above, questions remain about whether PASPA prohibits them.

In a typical DFS contest, contestants select a group of real world athletes to compete on virtual teams, which are then pitted against an opposing contestant's teams. The DFS operator awards points based on the statistical output of the selected athletes in real world games.

PASPA prohibits a person from operating—and a state from authorizing—betting, gambling, or wagering schemes that are based on the performance of amateur or professional athletes in competitive games. Because the performance of these athletes determine the points awarded by a DFS operator in a typical DFS contest, DFS contests may violate PASPA, although no federal court has yet weighed in on the issue.

In the absence of clear federal and state prohibitions on DFS contests, some states have expressly authorized them. While no bill authorizing DFS contests has so far been enacted in Minnesota, DFS operators continue to offer the contests in the state.

For more information: Contact legislative analyst Christopher Kleman at christopher.kleman@house.mn.

Matt Burress **Updated: October 2017**

Small Cities Assistance

Established in 2015, the Small Cities Assistance program provides formula-based transportation aid for 705 smaller cities in Minnesota that do not receive municipal state-aid street funding. Minn. Stat. § 162.145. Funds are for construction and maintenance of roads. Aid in fiscal year 2018 totals $8.0 million.

Background

The main state program for transportation-related assistance to cities is municipal state-aid street (MSAS) funding, which is part of a constitutional framework. However, under the constitution the funds are limited to cities having a population of at least 5,000. Minn. Const. art. XIV, § 8. The vast majority of Minnesota's cities fall below this population threshold and do not receive MSAS funds.

From 2005 to 2013, supplemental aid for cities under 5,000 population had been provided as part of the local government aid (LGA) formula. Aid amounts were calculated on a per capita basis, and in later years, an offset was determined based on a city's taxing capacity. The aid component was eliminated in 2013 in conjunction with adopting a new LGA formula. Laws 2013, ch. 143, art. 2, § 36.

Funding

The program was first funded in fiscal year 2016 through a $12.5 million general fund appropriation, with no funding provided in fiscal year 2017. The legislature subsequently enacted appropriations of $8.0 million from the general fund for each of fiscal years 2018 and 2019 (again with no base appropriation for future years). Laws 2017, 1st spec. sess., ch. 3, art. 1, § 2, subd. 4.

Requirements

Aid conditions and characteristics include the following:

- Eligibility is limited to cities that are not receiving MSAS street funds, which mostly means those that have a population of under 5,000
- Aid is restricted to construction and maintenance of roads and bridges on projects located at least partially within the city
- Funds can be used for various aspects of a road project, such as land acquisition as well as design and engineering work, and can be put towards a city's share on county or state road projects
- There is not a specified timeline for when funds must be used
- Except for work on state-aid system streets or highways, the state-aid design and engineering standards do not apply
- Funds are distributed as block grants rather than on a reimbursement basis
- The city must comply with required financial reporting to the State Auditor and maintain records on aid spending (otherwise, funds can be withheld)

Administration

Assistance is jointly administered by two state agencies. Formula calculations are handled by Minnesota Department of Transportation (MnDOT), while aid is distributed by the Department of Revenue in conjunction with administration of

LGA. Payments are generally made in two equal installments, by July 20 and December 26 in the fiscal year in which the funds are appropriated.

Aid formula

The aid is formula based, so that cities do not apply or compete for funds. The distribution formula contains four components:

- 10 percent of the funds available in each year is divided equally among all eligible cities
- 35 percent is allocated proportionally based on each city's population
- 35 percent is allocated proportionally based on each city's municipal street lane miles
- 25 percent is split proportionally in an amount that declines based on lane-miles of county state-aid highway (CSAH) located within each city, so that this aid under this component drops (down to $0) as a city's CSAH lane-miles increases

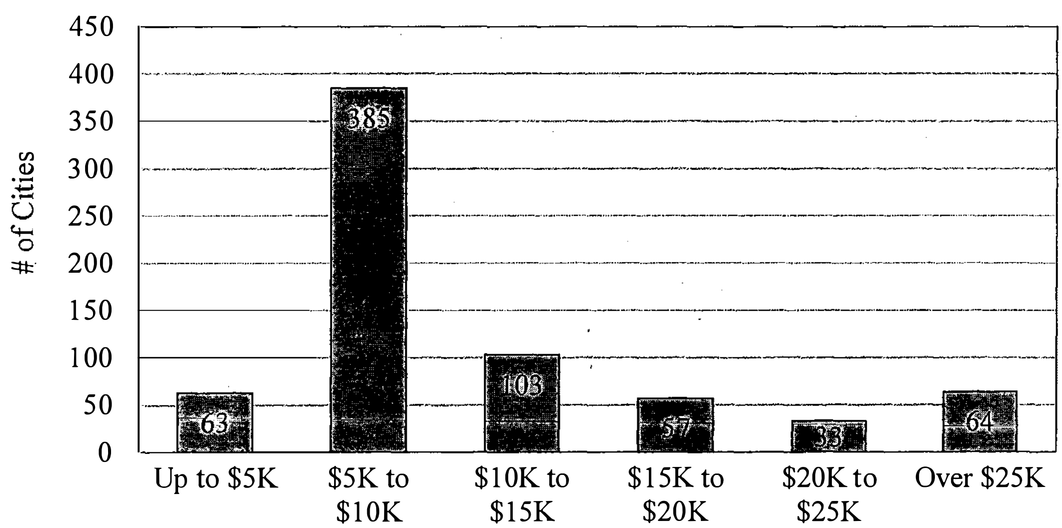
Another feature of the formula is a distribution cap, so that a city cannot receive more than 3.5 times the average aid being provided. For fiscal year 2018, the cap amounts to $39,716 per city.

Allocation of aid

Funds are distributed among 705 cities throughout Minnesota. For fiscal year 2018, the average amount is around $11,300, or $12.05 per capita. Financial assistance ranges from about $3,800 to the cap of nearly $40,000. About 78 percent of cities receive less than $15,000 in aid, and nine cities are at the distribution cap.

Small Cities Aid Distribution

FY 2018 (Cities Grouped by Aid Amount)



For more information: Contact legislative analyst Matt Burress at 651-296-5045. Also see the House Research publication *Municipal State-Aid Street System*, October 2017.

HOUSE RESEARCH | Short Subjects

Matt Burress

Updated: October 2017

Municipal State-Aid Street System

Some cities receive assistance from the state for construction and maintenance of streets that are part of the municipal state-aid street system. The aid is funded via a portion of transportation-related taxes and is distributed following a statutory formula. Aid distributed in calendar year 2017 is $173.2 million.

System overview

The municipal state-aid street (MSAS) system is a collection of key streets located in 148 Minnesota cities. They comprise many of the higher traffic volume and key connecting roads in each city. At roughly 3,700 miles, state-aid streets constitute a little under a quarter of all miles of city streets. There are restrictions on the size of the MSAS system within each city. Minn. Stat. § 162.09.

Constitutional framework for aid

The Minnesota Constitution establishes a basic framework for state highway finance. Among its features, the constitution dedicates specific transportation-related taxes to transportation purposes; allocates tax revenues by formula among state, county, and municipal roads; and creates a MSAS fund for financial assistance to cities. Minn. Const. art. XIV.

Eligibility based on population

The constitution requires that a city has a population over 5,000 to qualify for MSAS aid. Minn. Const. art. XIV, § 8. Population is determined by the last federal decennial census or most recent estimates. However, statutory provisions allow some cities whose populations drop below 5,000 to receive aid, including:

- an exception for Chisholm, whose population fell below the cutoff with the 2000 census but is permanently grandfathered in; and
- a transition period that provides continuation of aid to a city that had been receiving assistance but whose population dropped below the cutoff in a decennial census (for this decade, 2015 was the last transition year under the provision). Minn. Stat. § 162.09, subd. 4 (f); Laws 2001, 1st spec. sess., ch. 8, art. 2, § 6; Laws 2002, ch. 364, § 29.

Other assistance to ineligible cities

While cities having a population under 5,000 are not eligible for MSAS funds, the legislature established a small cities assistance program (most recently funded at $8.0 million in each of fiscal years 2018 and 2019). Minn. Stat. § 162.145. Such smaller cities are also assisted indirectly through state aid to counties: a share of state funds for the county state-aid highway system must be allocated to a municipal account for use on those county state-aid highways located within smaller cities. Minn. Stat. § 162.08, subd. 1.

Program administration

The Minnesota Department of Transportation (MnDOT) administers the state-aid program. MnDOT determines amounts annually based on a combination of tax receipts and future estimates. Aid apportionment amounts are released each January and distributed on a calendar-year basis.

MnDOT also adopts administrative rules governing the program, which cover topics such as minimum roadway design and engineering standards, design variance procedures, apportionment between construction and maintenance, and contract and bidding requirements. Minn. Rules, ch. 8820. While the department oversees aid distribution and provides technical assistance, both prioritization of road projects and their development are under the purview of each city.

Allocation of funds

MSAS funds are allocated as aid and for related purposes (such as administrative costs) based on multiple formulas in state law. Calendar year 2017 funding is at $177.6 million, but a cap on the amount held in a disaster account yielded about $53,100 in additional funds. Allocations consist of:

- $173.2 million apportioned by formula as direct aid to cities;
- $3.6 million for MnDOT agency expenses; and
- $868,100 to a research account. Minn. Stat. §§ 162.12, 162.13.

Aid apportionment formula

Money in the MSAS fund apportioned among cities as direct aid follows a formula created in state statute, so that:

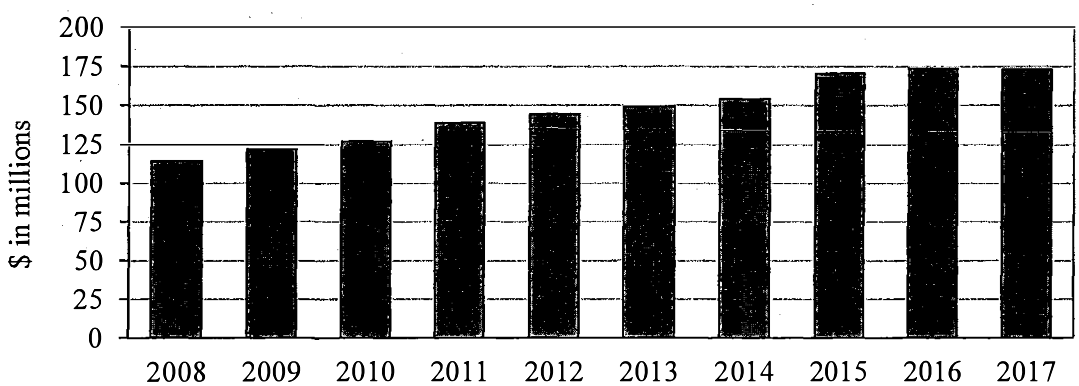
- **50 percent** is divided proportionally based on the population of each city (compared to the total for all municipal state-aid cities); and
- **50 percent** is divided proportionally based on construction needs for each city. Minn. Stat. § 162.13.

The needs calculation under the formula is structured to enable comparison across the cities (and does not identify total costs to bring municipal state-aid streets up to state standards). Calculations submitted by cities are reviewed by a screening board composed of city engineers.

Distribution to cities

Calendar year 2017 direct aid ranged from about $176,000 to just under $16.0 million, or $29.50 to $82.50 on a per capita basis). The average per city was nearly $1.2 million, with 46 cities receiving up to $500,000 each and 20 cities receiving over $2 million. Because of the weight of population in the aid formula, larger cities tend to receive greater shares of the aid.

MSAS Direct Aid History
CY 2008-17



For more information: See the House Research publications *Highway Finance*, February 2016, and *Small Cities Assistance,* October 2017.

Anna Scholin **Updated: October 2017**

The Dislocated Worker Program

What is the Dislocated Worker Program?

The Dislocated Worker Program provides assistance to eligible individuals who are displaced from their employment or source of support and require assistance in returning to or entering the workforce (Minn. Stat. § 116L.17).

Who is eligible for assistance?

Several kinds of workers are eligible for assistance under the program. They include those who:

- were separated or have received a notice of permanent separation from their employment, are eligible for or have exhausted their unemployment benefits, and are unlikely to return to their previous industry or occupation;
- have been long-term unemployed and have limited opportunities for similar reemployment in the area where they live, including older individuals who may have substantial barriers to employment by reason of age;
- were terminated or have been notified of impending termination as part of a plant closing or other large layoff;
- have been self-employed (including as farmers or ranchers) and are unemployed as a result of economic conditions or natural disasters;
- are veterans discharged or released from active duty under honorable conditions and are unemployed or earning less than what they could verifiably earn;
- have been determined by the U.S. Department of Labor to be covered by trade adjustment assistance under United States Code, title 19, sections 2271 to 2331, as amended; or
- are displaced homemakers, meaning they have spent a number of years providing homemaking service while dependent on another person and that person is no longer providing support as a result of the other person's disability or death, or because of a divorce. "Displaced homemaker" can also include a person who previously was supported by public assistance because of the presence of a dependent in the household who is no longer present.

What kind of assistance is available?

The program provides basic employment services such as job counseling, testing, skills assessment, job search, and placement assistance. It provides money for training, including classroom training, on-the-job training, skills training, and basic education. In some cases, it offers support services, including temporary help with expenses such as emergency housing assistance and rent, health care, transportation, child care, work-related tools and clothing, and similar costs that may need to be covered while a person is in training.

Under the Converting Layoffs into Minnesota Businesses (CLIMB) program, a special component of the Dislocated Worker Program, dislocated workers can also receive assistance in starting or growing their own business. Assistance may include entrepreneurial training, business consulting, and technical assistance. Participating individuals create a business plan and remain eligible for unemployment insurance benefits while working towards that plan.

How is the money distributed?

Funds are appropriated to the Job Skills Partnership Board and then allocated to workforce service areas or other eligible organizations, which may include labor organizations, business organizations, state or local government agencies, or nonprofit agencies. These areas and organizations often in turn contract with individual service providers to deliver services to individuals.

Where does the money come from?

Employers pay a special assessment along with their unemployment insurance taxes that goes into a separate fund called the Workforce Development Fund.

Not all the money in the Workforce Development Fund goes to fund the Dislocated Worker Program. The legislature appropriates some of the money in the fund to support other employment and training programs. Whatever money remains after these appropriations are made is available for the Dislocated Worker Program. Under certain circumstances, if there is more money in the fund than is necessary to meet the needs of dislocated workers, the Job Skills Partnership Board can use the extra money for other workforce training programs.

In addition to the state money, there are federal funds appropriated for the federal Dislocated Worker Program, which is similar to the state program, as well as funds available through federal National Dislocated Worker Grants. These funds are administered by the same state agency that runs Minnesota's Dislocated Worker Program.

How do individuals apply for assistance?

As soon as individuals receive a notice of permanent layoff or termination, they can contact their local WorkForce Center for assistance. Staff at the local site will help determine what services that worker qualifies for under the state and federal dislocated worker programs. WorkForce Centers are listed on Department of Employment and Economic Development website, https://mn.gov/deed/job-seekers/workforce-centers/workforce-center-locations/.

For more information: Contact legislative analyst Anna Scholin at anna.scholin@house.mn.

HOUSE RESEARCH | Short Subjects

Matt Burress

Updated: October 2017

County State-Aid Highway System

System overview

The county state-aid highway system is a network of key highways under the jurisdiction of Minnesota's counties. It covers roughly 30,700 miles of roadway throughout all counties, composing over two-thirds of county highway miles. Counties receive formula-based state money to assist in the construction, improvement, and maintenance of highways included in the state-aid system.

Sources of revenue

Aid is provided through the County State-Aid Highway (CSAH) fund, which is established by the Minnesota Constitution. Revenue mainly comes from a share of taxes on motor fuels, vehicle registration, vehicle sales, and vehicle leases.

Program administration

Money in the CSAH fund is administered by the Minnesota Department of Transportation (MnDOT). Using a combination of tax receipts and future estimates, aid apportionments are released each January with distribution on a calendar-year basis. MnDOT also adopts administrative rules governing the program (covering topics such as design standards). Road project prioritization, selection, and construction management are under the purview of each county.

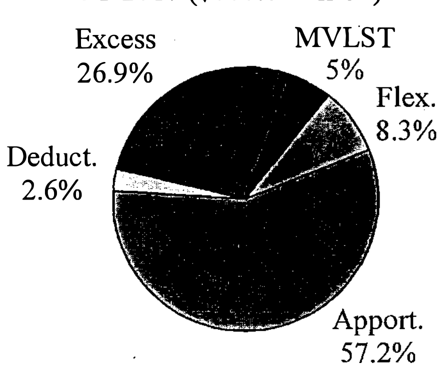
Aid requirements

Among the requirements of the aid, counties typically expend 60 percent on construction projects and 40 percent on maintenance efforts. Minn. Rules, part 8820.1400. Counties must also expend a share of aid on stretches of state-aid highways located within "small cities" having a population under 5,000, generally in amounts proportional to the share of construction needs for county state-aid highway segments located in the small cities. Minn. Stat. § 162.08, subd. 1.

CSAH funds

Total state funding is $660.8 million in calendar year 2017, allocated as follows.

CSAH Breakdown
CY 2017 ($660.8 million)



- Following statutory requirements, $17.5 million in net **deductions** are set aside for county highway purposes, consisting of: (1) MnDOT administrative costs, (2) a disaster account, (3) a research account, and (4) a state park roads account. Minn. Stat. § 162.06.
- A portion of general sales tax revenue, known as **motor vehicle lease sales tax (MVLST)**, is allocated by formula to Twin Cities metropolitan area counties. The distribution excludes Hennepin and Ramsey and is in proportion to the population of each county (it is also distinct from core aid, discussed below). Minn. Stat. § 297A.815. Funds in calendar year 2017 amount to $33.2 million.
- $54.7 million from a "set-aside" in the **flexible highway account** is provided for county road turnbacks (generally, trunk highway segments that are improved and turned over to become part of the county state-aid highway system). Minn. Stat. § 161.081.
- **Core aid** in calendar year 2017 is $555.5 million. It is divided into two categories for distribution among the counties by formula: the apportionment sum and the excess sum.

Apportionment and excess sum

Core aid to counties had been allocated under one formula until 2008, when the excess sum was created as a second component with a separate but similar statutory distribution formula. The excess sum was calculated in a manner essentially designed to handle increased funding for transportation due to finance changes made over 2006 to 2008 (so that the additional funding was largely allocated through the excess sum formula).

Legislation in 2015 eliminated the calculation methodology used to identify excess sum revenue, replacing it with straight percentages. Laws 2015, ch. 75, art. 2, § 12. Starting with calendar year 2016, core aid dollars are provided 68 percent through the apportionment sum formula, and 32 percent through the excess sum formula. Minn. Stat. § 162.07.

Apportionment sum formula

The formula to distribute the apportionment sum among counties is as follows:

- 10 percent of the apportionment sum is divided equally
- 10 percent is proportional based on the number of motor vehicles registered in each county (compared to the total for all counties)
- 30 percent is proportional based on a county's state aid lane-miles
- 50 percent is proportional based on construction needs for each county, the calculation of which is structured to enable comparison across the counties (and does not identify total costs to bring county state-aid highways up to state standards). Needs calculations submitted by counties are reviewed by a screening board composed of county engineers. Minn. Stat. § 162.07.

Excess sum formula

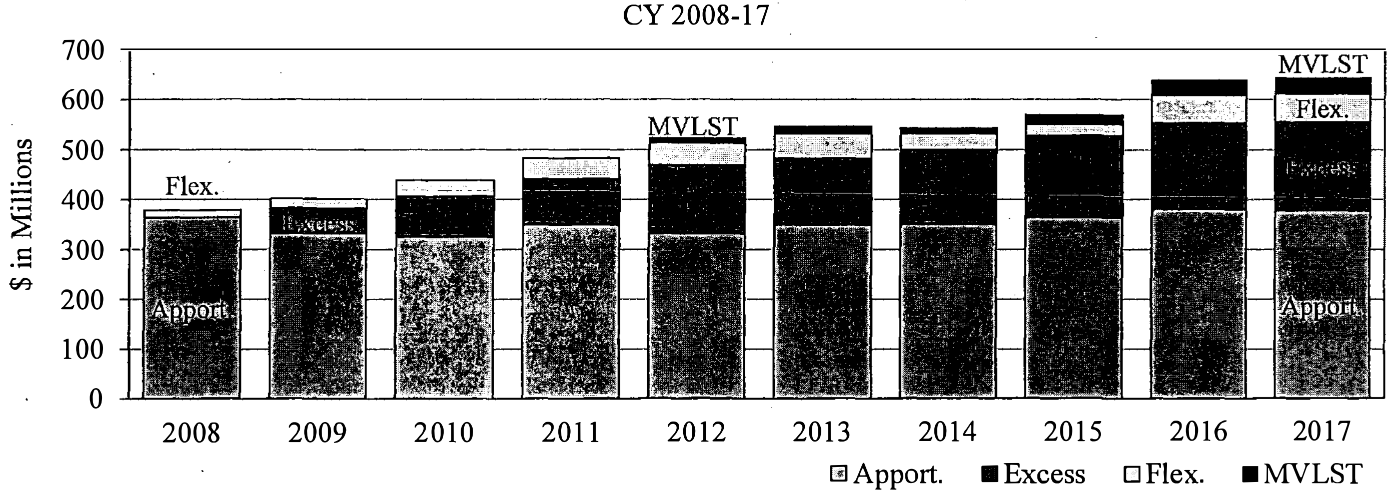
The excess sum is also distributed by formula:

- 60 percent is in proportion to each county's share of construction needs
- 40 percent of funds are allocated in proportion to each county's share of the total number of motor vehicles registered. Minn. Stat. § 162.07.

Aid amounts

The chart below summarizes aid distribution, excluding deductions, by calendar year.

County State Aid History
CY 2008-17



For more information: See the House Research publication *Highway Finance*, February 2016.

House Research Department | 600 State Office Building | St. Paul, MN 55155 | 651-296-6753 | www.house.mn/hrd/

HOUSE RESEARCH | Short Subjects

Sarah Sunderman **Updated: October 2017**

Child Care Licensing

To protect the health, safety, and welfare of children in child care settings, state law requires child care programs to be licensed. Licensure of child care programs is primarily governed by Minnesota Statutes, chapter 245A, and Minnesota Rules, chapters 9502 and 9503.

Who must be licensed?

Any individual, corporation, or organization providing child care services must be licensed. Operating a program without a license is a misdemeanor, and both child care centers and family child care programs must be licensed. In late 2017, the Minnesota Department of Human Services (DHS) will begin phasing in a certification process for license-exempt child care centers participating in the Child Care Assistance Program (CCAP).

The following types of child care are considered to be legal nonlicensed or license-exempt, under Minnesota Statutes, section 245A.03, subdivision 2:

- care provided to children who are related to the child care provider
- care provided by an unrelated individual to children from a single family
- programs operated by a public school for children 33 months or older
- services provided for children for less than three hours a day while the child's parent or legal guardian is in the same or contiguous building
- recreation programs operated or approved by a park and recreation board
- programs operated by a school, YMCA, YWCA, or JCC whose primary purpose is providing child care or services to school-age children
- Head Start programs that operate for less than 45 days a year
- programs for children such as scouting, boys and girls clubs, arts, and sports, provided for a total of less than 30 days in any 12-month period
- religious instruction of school-age children; Sabbath or Sunday schools; or care by a church, congregation, or religious society during regular worship
- programs operated by an accredited nonpublic school serving only children who are age 33 months or older, for no more than four hours per day per child, with no more than 20 children at any one time
- programs operated by a nonprofit organization that provide structured, supervised youth development and K-12 educational opportunities

What are the roles of state and local governments in the licensing process?

Both state and local governments have child care licensing duties. The state:

- issues licenses to all child care programs;
- conducts licensing inspections and investigates alleged licensing violations or child maltreatment in child care centers; and
- conducts background studies of child care staff in licensed child care centers and licensed family and group family child care programs. If a

background study reveals certain crimes, conduct, or maltreatment, the commissioner may disqualify the individual from child care service.

The local county social services or human services agency:

- performs specified licensing functions for family and group family child care programs; and
- conducts licensing inspections and investigates alleged licensing violations or child maltreatment in family and group family child care settings.

What recent licensing changes have been made?

Background Studies. All licensed child care center and family child care staff and household members 13 or older must undergo a new fingerprint-based background study. The study will review state criminal records, predatory offender and abuse and neglect registries, and FBI criminal records data (for individuals 18 or older). DHS will contact providers and counties about the timeline for implementation.

Training, Health, and Safety Requirements

- For the purposes of family child care training, "annual" now means the 12-month period starting on the license date or annual anniversary of the date and ending one day before the anniversary of the license date.
- Protocols were modified to comply with federal block grant requirements in the following areas:
  - Parental access
  - Orientation training
  - Child growth and development and behavior guidance training
  - First aid and CPR training
  - In-service training completion and documentation
  - Allergy prevention and response
  - Handling and disposal of bodily fluids
  - Emergency planning and preparedness

Inspections and Correction Orders (implementation dates to be determined)

- Counties and DHS will inspect licensed family child care programs and child care centers annually, likely beginning with 02018 inspections.
- DHS will issue a fix-it ticket in lieu of a correction order for certain minor licensing violations.
- DHS and county licensing agencies must offer an exit interview before completing a licensing inspection.
- DHS will issue amended correction orders if reversed or rescinded.
- Licensed family child care providers may request expedited review of a correction order in certain circumstances.

For more information: Providers can refer to the DHS website, which has both a Q&A page and an FAQ page. For other family child care questions, individuals should contact their local county agency. For questions about child care center licensing, individuals should call the DHS licensing division, at 651-431-6500.

Danyell A. Punelli

October 2017

Medicaid Home- and Community-Based Waivered Services

What are Minnesota's Medicaid home- and community-based waivers?

Minnesota currently administers the following five home- and community-based (HCBS) waiver programs:

- *Developmental Disabilities (DD) Waiver.* This waiver is for people with developmental disabilities or a related condition who need the level of care provided at an intermediate care facility for persons with developmental disabilities (ICF/DD).
- *Community Alternative Care (CAC) Waiver.* This waiver is for people who have a chronic illness and need the level of care provided at a hospital.
- *Community Access for Disability Inclusion (CADI) Waiver.* This waiver is for people who have a disability and require the level of care provided in a nursing home.
- *Brain Injury (BI) Waiver.* This waiver is for people with a traumatic or acquired brain injury who need the level of care provided in a nursing home or neurobehavioral hospital.
- *Elderly Waiver.* This waiver is for people who are over 65 years old and need the level of care provided at a nursing facility.

HCBS waivers allow for federal Medicaid reimbursement for certain services provided to the chronically ill, disabled, and elderly, which are not otherwise covered under the Medicaid program in the state plan (receipt of a "waiver" allows a state to waive certain federal Medicaid rules governing institutional care).

What is the purpose of the waivers?

The purpose of these waivers is to help people remain in their homes and communities, rather than be institutionalized. These waivers allow Minnesota: (1) an alternative to placing Medicaid-eligible individuals in hospitals, nursing facilities, or ICF/DDs; and (2) to provide services that are not covered or are limited under the traditional Medicaid program.

How does a state receive a waiver?

In order to participate in and receive federal reimbursement for home- and community-based Medicaid expenditures, states must make special application to the federal Department of Health and Human Services (DHHS), seeking approval for each home- and community-based waiver program. Each state must assure DHHS that it will protect each consumer's health and welfare, and assure the consumer's right to choose HCBS or services in an institutional setting.

Who administers the HCBS waivers?

The Minnesota Department of Human Services (DHS) oversees the waivers and the distribution of funding to counties. The counties administer the waiver programs and develop individualized service plans with recipients.

What are the eligibility requirements for an individual to receive waivered services?

In order to receive services under one of the home- and community-based waiver programs, an individual must be MA-eligible and choose to receive services in the community. Each waiver program also has additional criteria to be eligible for services, such as meeting the specified level of care requirement and having an assessed need for supports and services over and above those available through the MA state plan.

How many people receive services through Minnesota's HCBS waivers?

Waiver Program	Recipients in 2016	Recipients in 2017 (est.)
DD waiver	17,488	19,005
CAC waiver	494	549
CADI waiver	24,012	28,152
BI waiver	1,421	1,404
Elderly waiver	32,211	34,573

Source: Minnesota Department of Human Services, Background Data Tables for End-of-Session 2017 Forecast

How are the HCBS waivers funded?

As with Minnesota's other Medicaid services, the waiver programs receive half of their funding from the federal government and half from the state general fund.

States must assure that the expenditures under the home- and community-based waiver program, on average, will not exceed the cost of care for the identical population if they would have been in an institution.

Waiver Program	2016 Expenditures	2016 Avg. Cost/Recipient	2017 Expenditures (est.)	2017 Avg. Cost/Recipient (est.)
DD waiver	$1,232,746,086	$70,491	$1,294,875,564	$68,132
CAC waiver	32,257,451	65,298	36,374,235	66,305
CADI waiver	721,435,197	30,045	836,409,696	29,710
BI waiver	100,652,385	70,832	102,959,293	73,317
Elderly waiver*	356,425,122	13,636	324,848,128	11,477

Source: Minnesota Department of Human Services, Background Data Tables for End-of-Session 2017 Forecast

* Managed care only, does not include fee-for-service

What are some potential legislative issues?

The 2017 Legislature directed DHS to conduct a study on consolidating the four disability HCBS waivers into one program. DHS must make recommendations to the legislature by January 15, 2019.

The 2017 Legislature directed the Revisor's Office and others to prepare legislation for the 2018 legislative session to recodify laws governing the elderly waiver program.

The Legislative Auditor's Office published an evaluation of HCBS financial oversight in February 2016. Some of the recommendations included in the report were enacted in 2017, but some recommendations related to documentation of services provided were not.

For more information: Contact legislative analyst Danyell A. Punelli at 651-296-5058. See also the House Research publication *Medicaid Home- and Community-Based Waiver Programs*, October 2016.

HOUSE RESEARCH | **Short Subjects**

Anna Scholin

Updated: November 2017

Minnesota Building Code

The building code is a collection of state laws and rules that apply a uniform set of standards to the construction and modification of buildings in order to enhance safety, energy efficiency, and accessibility.

What is the state building code?

Under Minnesota Statutes, section 326B.121, the Minnesota Building Code, or the code, is the "standard that applies statewide for the construction, reconstruction, alteration and repair of buildings and other structures." It is the same throughout Minnesota and supersedes any county or municipal rules.

While there is a single state building code, it is composed of many smaller codes each focused on a particular technical area or type of structure, such as plumbing, electrical, elevators, accessibility, energy, or residences. A list of all of these codes is available on the Department of Labor and Industry website, http://www.dli.mn.gov/ccld/codes15.asp.

Most of the language of the code comes directly from national and international standards, such as the International Building Code, that are incorporated in whole or in part into the Minnesota Building Code via rulemaking.

Who administers and enforces the building code?

The code is administered by the state Department of Labor and Industry's (DOLI) Construction Codes and Licensing Division (CCLD) in conjunction with cities, townships, and counties throughout the state.

For public buildings, state-licensed facilities, and places of public accommodation, state officials at DOLI enforce the code or delegate enforcement to local building officials. For definitions of these types of buildings see Minnesota Statutes, sections 326B.103, subdivisions 11 and 13, and 326B.108.

For other types of buildings in counties and municipalities where the code has been formally adopted, enforcement is done by local building officials. For details on code enforcement in a specific area, see DOLI's code enforcement database, http://workplace.doli.state.mn.us/jurisdiction/.

For other types of buildings in jurisdictions that have not formally adopted the code, there may be no government entity actively monitoring code enforcement. Nevertheless, the code still applies to buildings in these areas. Further, compliance may be required by contracts with lending institutions or insurance providers.

How is the code changed?

The code is modified regularly by DOLI, after consultation with committees of technical experts, in conjunction with semi-annual updates to national and international standards. The code may also be amended by the legislature.

Members of the public may propose code changes to DOLI using the form provided on the DOLI website, http://www.dli.mn.gov/CCLD/rm/doc/change.doc.

How can the legislature affect the code?

The legislature can write laws that alter the code, either by adding new regulations or by changing how the existing codes will apply within Minnesota. For instance, because of legislative action, state law directs that the code cover several broad areas including elevators, electricity, plumbing, accessibility, manufactured homes, prefabricated homes, and industrialized and modular buildings.

Examples of recent legislative changes to the code include laws affecting the rules that apply to fire sprinklers, smoke detection, automatic garage door openers, radon control, and window fall prevention.

Does the code apply to agricultural buildings?

Agricultural buildings generally are not covered by the code. Agricultural buildings are those used only for agricultural purposes and situated on agricultural land. For more detailed information on exempt agricultural buildings, see Minnesota Statutes, sections 326B.103, subdivision 3, and 273.13, subdivision 23.

Does the state building code include the state fire code?

The State Fire Code is a separate set of standards. The Minnesota Department of Public Safety (DPS) and the State Fire Marshal administer the State Fire Code. For additional information about the State Fire Code see the DPS website, https://dps.mn.gov/divisions/sfm/fire-code/Pages/default.aspx.

Where can people find a copy of the building code?

The DOLI website provides free digital copies of all parts of the state building code, as well as links for purchasing code books and to helpful fact sheets, http://www.dli.mn.gov/ccld/codes15.asp.

Who can answer code questions?

If people have questions about how the code might apply to a specific situation, the best sources for interpretation are local building officials or the CCLD.

Contact information for local officials can be found in this database from DOLI, http://workplace.doli.state.mn.us/jurisdiction/.

The CCLD's list of contact numbers by topic of question may be found on the DOLI website, http://www.dli.mn.gov/ccld/PDF/topic.pdf.

For more information: Contact legislative analyst Anna Scholin at anna.scholin@house.mn.

Pat Dalton

Updated: November 2017

The City LGA Program

The current formula was enacted in 2013

The city local government aid (LGA) program has existed since 1972. The current formula for the program was enacted in 2013. The new formula addresses a number of criticisms of the previous formula, such as complexity, volatility, and amount of aid distributed "off-formula." The formula calculates increases and decreases in each city's aid based on the gap between its "unmet need" and its current aid level. Cities with large gaps will get larger aid increases, and cities whose aid is more than their current "unmet need" will gradually lose aid over time. The only major change to the formula since 2013 was the addition of a sparsity adjustment in 2017 to the small and medium city need measures.

Virtually all of the LGA appropriation is distributed via the formula

The city LGA appropriation is $519.4 million for aids payable in 2016 and 2017 and $534.4 million for aids payable in 2018 and thereafter. Beginning with aids payable in 2015, only $310,000 is distributed as nonformula aid. Prior to 2014, $24 million was distributed to various cities outside of the formula.

There are three need formulas for cities—based on a city's size

The measure of a city's "need" depends on its population:

- **For small cities (population less than 2,500):** need per capita is based solely on the city's population, including a sparsity adjustment
- **For medium-size cities (population between 2,500 and 10,000):** need per capita is based on (1) percent of housing built before 1940, (2) household size, (3) population decline from a city's peak population in the last 40 years, and (4) a sparsity adjustment
- **For large cities (population over 10,000):** need per capita is determined by (1) jobs per capita, (2) age of housing stock (both housing built before 1940 and housing built between 1940 and 1970), and (3) a sparsity adjustment for cities with a population less than 150 per square mile

A city's aid changes based on differences between its unmet need and its previous aid

Each city's unmet need is equal to the difference between (1) its need per capita multiplied by its population, and (2) its equalized net tax capacity multiplied by the average tax rate for all cities in the previous year. If the city's "unmet need" is greater than the amount of aid it received in the previous year, its aid will increase. The increase equals a percentage of the gap between the city's unmet need and its previous aid amount. The percentage is the same for all cities and depends heavily on annual appropriation increases. For aid payable in 2018, this percentage is 5.5.

If a city's aid in the previous year is greater than its unmet need, its aid will decrease; either to the unmet need amount or by the maximum allowed annual decrease (see next page).

Annual aid fluctuations will be minimized

A city whose current aid is far below its "unmet need" measure will see larger dollar increases than a city whose aid is close to its "unmet need." Over time all cities will gradually move toward receiving aid equal to their unmet need amount. Because aid is based on each city's need rather than on changes in need for all cities, payments to individual cities will be more stable.

Characteristics of the Current LGA Program

Funding level	\$519.4 million in Payable 2017, \$534.4 million thereafter
Nonformula aid	• Warroad - \$150,000/year for five years • Mahnomen - \$160,000/year permanently
"Formula need"[1]	For cities with a population of less than 2,500: Need per capita = \$410 + .0367 x (city population – 100) up to a maximum of \$630 + (200 if the city population density is less than 30 persons/sq. mile) For cities with a population of at least 2,500 but less than 10,000: Need per capita = 1.15 x {\$572.62 + (5.026 x percent of housing built before 1940) – (53.768 x average household size) + (14.022 x population decline from the city's peak census population) + (200 if the city population density is less than 30 persons/sq. mile)} For cities with a population of 10,000 or more: Need per capita = 1.15 x {307.664 + (4.59 x percent of housing built before 1940) (0.622 x percent of housing built between 1940 and 1970) + + (169.415 x jobs per capita in city) + (100 if the city population density is less than 150 person/sq. mile)}
"Unmet need"	= ("Formula need" x population) – (city net tax capacity x average city tax rate)
Formula aid	For cities whose unmet need is *less* than its previous year aid: Formula aid = "Unmet Need" For cities whose unmet need is *greater* than its previous year aid: Formula aid = last year's formula aid + X% of the difference between its "unmet need" and its aid in the previous year
Final aid	= Formula aid + nonformula aid; subject to the maximum annual decrease
Limits on annual decreases	No city's aid can decrease from the previous year's amount by more than an amount equal to the *lesser* of: • \$10 multiplied by the city population; or • 5% of the city's levy in the previous year

[1] To avoid sudden changes in city formula need measures, a city with a population between 2,500 and 3,000 or between 10,000 and 10,500, has a formula need based partially on the formula for its current size and partially on the formula for the cities of the next smaller size.

HOUSE RESEARCH | Short Subjects

Pat Dalton November 2017

Taxation of Motor Vehicle Leases

Motor vehicle leases are subject to the 6.875 percent general sales tax

While the *sale* of a motor vehicle is subject to the 6.5 percent motor vehicle sales tax imposed under Minnesota Statutes, chapter 297B, the *lease* of a motor vehicle is subject to the general sales tax of 6.875 percent imposed under Minnesota Statutes, chapter 297A. (The general sales tax is a 6.5 percent tax, plus an additional 0.375 percent imposed under the state constitution until July 1, 2034.) The general sales tax is imposed on all motor vehicle leases regardless of duration. There are also some additional taxes and fees imposed on short-term leases of certain motor vehicles under the general sales tax chapter. The timing of the payment of the sales tax depends on the length of the motor vehicle lease.

Most short-term leases are also subject to an additional 9.2 percent tax and 5 percent fee

Short-term rentals of 28 days or less of passenger motor vehicles are subject to a tax of 9.2 percent in addition to the general 6.875 percent tax. They are also subject to a fee of 5 percent. (A lessor with no more than 20 vehicles for lease and no more than $50,000 in gross receipts in the previous calendar year may opt out of charging the 5 percent fee.) Motor vehicles subject to this tax and fee include automobiles, passenger vans with a carrying capacity of three-fourths of a ton or less, and pickup trucks with a carrying capacity of no more than three-fourths tons or a gross vehicle weight of less than 10,000 pounds. It does not apply to a taxicab, hearse or limousine used for funerals, or cargo vans. The total taxes plus fees on a short-term lease is 21.075 percent of the lease price.

Vehicles rented from a nonprofit car-sharing company are exempt from the extra tax and fee

A nonprofit corporation that runs a short-term vehicle rental service for members only (often known as a car-sharing company) is exempt from the additional tax and fee on short-term motor vehicle leases provided that:

- the charge to members is priced based on intervals of one hour or less, and the rate does not decline with increased use (measured by time or distance);
- vehicles are parked at unstaffed self-service spots that are accessible 24 hours a day; and
- the nonprofit corporation insures the vehicle on the members' behalf, and pays for all fuel.

A *for-profit* car-sharing company is still subject to the additional short-term tax and fee.

The total sales tax is due upfront on most long-term motor vehicle leases

Generally the sales tax on a leased item is due incrementally at the time of each lease payment. However the total sales tax owed over the entire lease agreement is due at the time that the lease is executed for long-term leases of most motor vehicles. This upfront sales tax payment *does not* apply to a motor vehicle lease if:

- the lease agreement is for 28 days or less; or

- the motor vehicle has a manufacturer's gross vehicle weight rating of more than 10,000 pounds (this excludes large commercial vehicles).

The state receives the revenue at the time of the lease agreement, either because the lessee pays the tax when the lease is executed or the lessor pays the tax at the time of the agreement and builds the amount of the tax into the periodic lease payments.

Most sales tax revenue on motor vehicle leases goes to dedicated funds

Most of the sales taxes imposed on long- and short-term motor vehicle leases goes to dedicated transportation funds. The exceptions are the sales tax paid on primarily commercial motor vehicle leases that are not subject to either the extra short-term lease tax and fee or the upfront sales tax payment requirement, and the revenue from the extra 0.375 percent general tax that is constitutionally dedicated to other funds. As indicated below the short-term lease fee mainly remains with the lessor.

Distribution of Taxes and Fees Imposed on Motor Vehicle Leases

Tax or Fee	Allocation of Revenue	Amount allocated in FY 2018
6.5% general tax	**For revenues from vehicles leases subject to the upfront sales tax payment:** • 38% to the county state-aid highway fund • 38% to the greater Minnesota transit account • 13% to the Minnesota state transportation fund • 11% to the highway user tax distribution fund (HUTDF)	**$94.5 million**
	For revenues from vehicles leases subject to the extra short-term tax and fee: • 100% to the HUTDF	**$17.2 million**
	For revenues on all other motor vehicle leases: • 100% to the general fund	**Not available**
0.375% additional general tax	**All revenue is allocated as follows:** • 33% to the outdoor heritage fund • 33% to the clean water fund • 14.25% to the parks and trails fund • 19.75% to the arts and cultural heritage fund	**$5.4 million**
9.2% short-term lease tax	100% to the HUTDF	**$24.4 million**
5.0% short-term fee	The lessor of the vehicle retains the fee to cover the motor vehicle registration fee on the leased vehicle; any fee collected in excess of that amount is remitted to the state with 100% going to the HUTDF	**$2.0 million** (Amount transferred to the HUTDF)

For more information: Contact legislative analyst Pat Dalton at 651-296-4472. Also see the House Research publication *Motor Vehicle Sales Tax*, February 2016.

Elisabeth Klarqvist and Colbey Sullivan Updated: November 2017

Food Safety System: An Overview

This short subject describes state laws and activities that protect Minnesota's food supply from contamination by filth, vermin, disease-causing bacteria or viruses, or other adulterants. The state food safety system includes activities that identify foods and beverages responsible for foodborne illness outbreaks.

What is the state's role?

State law requires licensing and periodic inspection of many participants in the commercial food industry. This includes most food manufacturers, processors, distributors, transporters, and retailers. Licensing requirements, food-handling and facility-sanitation standards, and inspection frequency vary based on the type of food operation and the perceived level of risk posed to public health. The state also has a role in monitoring, detecting, and investigating foodborne illness.

Which state agencies are involved?

The Departments of Agriculture and Health share primary responsibility for administering the state's food safety laws. Both agencies enforce the state food code (Minn. Rules, ch. 4626). Each agency's jurisdiction is established in law and summarized in the table below. A food business that prepares and serves food under the jurisdiction of both agencies is licensed by the agency responsible for the majority of the entity's business.

Agencies Responsible for Food Safety

Agency	Role	Regulated Entities
Minnesota Department of Agriculture (MDA)	MDA licenses and inspects food manufacturers, wholesalers, transporters, and retailers. Inspectors enforce state standards relating to food quality, condition, labeling, and advertising as well as the sanitation of premises, equipment, and vehicles used in the sale, storage, or distribution of foods and beverages. MDA also investigates complaints regarding questionable food products or sales practices, participates in foodborne illness investigations involving MDA-regulated facilities, and educates regulated entities and citizens about safe food-handling practices.	Grocery stores; bakeries; convenience stores; meat or poultry processors; egg handlers; dairy farms, processing plants, and haulers; food manufacturers; vending machines; food delivery vehicles; fair stands; certain mobile food units (depending on menu); wholesale food distributors; and feed mills
Minnesota Department of Health (MDH)	MDH licenses and inspects food service entities and provides food safety information to the public and industry via its website, an interactive education program, and professional development courses. MDH also tracks and monitors foodborne illness through disease outbreak detection activities, including active lab surveillance for reportable diseases, utilization of the Minnesota Foodborne and Waterborne Illness Hotline, and inspection of identified facilities to ensure safe food handling.	Cafes; restaurants; bars and lounges; bed and breakfasts; hotels; motels; resorts; delis; caterers; workplace and school cafeterias; coffee shops; clubs; concession stands; conference centers; food carts; certain mobile food units (depending on menu); and special event food stands

What role do other levels of government play?

Many Minnesota laws are based on federal food safety laws, model codes, and national facility, equipment, and sanitation standards. In fact, several federal laws and interstate standards are explicitly incorporated in state law. Federal regulators also have a physical presence in the state. As required by federal law, inspectors with the U.S. Department of Agriculture (USDA) examine all meat, poultry, and related products produced in Minnesota that may be sold in other states. In addition, state employees inspect small meat and poultry processors and other food businesses under agreements with the USDA or the Food and Drug Administration (FDA) within the U.S. Department of Health and Human Services. Additionally, the Centers for Disease Control and Prevention (CDC) coordinates the national foodborne illness surveillance network and provides funding to ensure state participation.

Both MDA and MDH exercise statutory authority to delegate certain retail facility licensing and inspection activities to eligible, participating local units of government. For example, some larger cities carry out their own restaurant licensing and inspection programs under agreements with MDH.

How are food safety activities funded?

Activities at both MDA and MDH are funded by a combination of fees paid by regulated entities, federal funds, and state general fund appropriations. The relative importance of each source varies significantly by program.

How frequently are food establishments inspected?

The frequency of inspection depends upon the type of operation as well as the food-handling methods employed at the site. For example, federal law and USDA cooperative agreements require MDA inspectors to be present whenever small, intrastate operations are slaughtering livestock or producing meat or poultry products for sale. MDA and MDH—or a local entity under a delegation agreement—inspect other regulated entities once a year, once every 18 months, or once every 24 months, depending on the operation's risk to public health.

Are there any constraints on state food safety policy?

Yes. Federal laws, delegation agreements, and interstate food safety ordinances that provide for a degree of uniformity across the nation effectively limit state food safety policymaking in certain areas.

How are foodborne illness outbreaks detected in Minnesota?

MDH detects foodborne illness outbreaks by utilizing mandatory reporting of communicable diseases, reports made to the Minnesota Foodborne and Waterborne Illness Hotline, emails to a dedicated reporting address, and reports to the Foodborne and Waterborne Illness Report (an online survey). Reported cases confirmed by MDH are quickly investigated to identify potential sources of illness. Once a source is identified, the regulatory divisions of MDA and MDH are notified in order to address the food item of concern and to identify and correct food-handling practices that led to contamination.

For more information: For licensing questions, food-handling guidance, foodborne illness concerns, or other related matters, contact the Minnesota Department of Agriculture at 1-800-967-AGRI or the Minnesota Department of Health at 651-201-4500. For legislative matters, contact legislative analyst Elisabeth Klarqvist (public health) at 651-296-5043 or Colbey Sullivan (agriculture) at 651-296-5047.

HOUSE RESEARCH | Short Subjects

Sarah Sunderman

November 2017

Medical Assistance Estate Recovery and Liens

The Medical Assistance (MA) program is Minnesota's Medicaid program, providing assistance for basic health care services for low-income individuals. Federal and state law require the Department of Human Services (DHS) and local county or tribal agencies to recover costs that MA paid for specified health care services provided to certain enrollees, through estate recovery processes. Minnesota recently enacted changes to limit some MA estate recoveries. MA estate recovery is governed by federal law and Minnesota Statutes, section 256B.15.

What costs are recovered?

For MA enrollees receiving services at age 55 or older, local agencies will now recover **only the costs of long-term services and supports** received by a deceased enrollee. Costs for these services received prior to age 55 are **not** subject to estate recovery. Long-term services and supports include:

- nursing facility services;
- home and community-based services;
- personal care assistance; and
- hospital and prescription drug services received along with nursing facility and home and community-based services.

If a person at any age received General Assistance Medical Care (GAMC) or MA services while permanently residing in a medical institution (including a nursing home), **all** MA and GAMC service costs may be recovered from their estate upon death. The GAMC program ended in 2011.

To which estate claims do the new limitations apply?

MA estate recovery for only the costs of long-term services and supports applies to estate claims pending on or after July 1, 2016, or to estates of people who die on or after July 1, 2016. Previous estate claims were subject to estate recovery for the costs of all MA services provided to enrollees at or after age 55.

How do DHS and local agencies recover the costs?

Local agencies assert an MA claim against an enrollee's estate after requesting a claims history report from DHS and determining the final claim amount. The process for filing a claim depends on how the estate's property is distributed. There is no statute of limitations for when local agencies may file MA claims.

DHS does not directly recover from estates, but asserts liens against real property to collect MA costs, if necessary. DHS only asserts liens if an enrollee permanently resides in a medical institution, or after an enrollee's death.

Are there protections for surviving spouses and children?

If a deceased enrollee is survived by a spouse or a child who is under 21 years old, blind, or permanently disabled, local agencies will delay estate recovery and the spouse or qualifying child will inherit. After the spouse dies or a child no longer qualifies, local agencies will attempt to recover costs for the deceased enrollee's care from the spouse's estate.

DHS cannot file a real property lien on a property that is the enrollee's spouse's or qualifying child's home.

Undue hardship waivers may be granted when an MA claim can only be satisfied by the sale of a particular estate asset and the following is true:

1) the waiver applicant (other than surviving spouse) has continuously occupied the property since at least 180 days before the MA enrollee's death, and will continue to do so;
2) the waiver applicant had an ownership interest in the real property and continues to have an interest; or
3) the waiver applicant uses the property to produce income in a trade, profession, or occupation.

How are funeral expenses affected?

Reasonable funeral expenses are paid from a deceased enrollee's estate **before** a local agency can recover MA costs. According to DHS guidelines, reasonable funeral and funeral-related costs include the following:

- Up to two death certificates
- Expenses for cremation or embalming, clothing, and the lowest-cost casket
- Ground transportation of the body
- Costs of internment in a cemetery plot or vault, including lowest-cost grave marker and engraving
- One public visitation service, funeral service, or grave site service, including fees for one officiant and one musician or vocalist
- One 24-line obituary, without a photo, for one day

Funeral expenses **not** paid before a local agency may recover MA costs include: family travel and lodging; flowers; food and beverages; clothing; police escort; stationery; and charitable donations.

How are funds in trusts treated?

Any funds in a prepaid burial trust or life insurance policy intended to pay funeral expenses will be distributed for those expenses and are not subject to MA recovery. After funeral expenses are paid, any funds remaining in the trust or policy are distributed to the estate and are then subject to MA recovery. If funeral expenses exceed the amount in the trust or policy, reasonable funeral expenses are paid from the estate before a local agency may recover MA costs.

If a deceased enrollee has a special needs trust or pooled trust, the DHS Special Recovery Unit works with the trust administrator to determine which funeral expenses will be allowed prior to MA recovery. Minnesota law does not prioritize reasonable funeral expenses before MA claims for these trusts.

For more information: Private attorneys or legal aid organizations can answer questions and provide planning assistance. For legislative issues, contact legislative analyst Sarah Sunderman at 651-296-8079. See also the House Research Department publication, *Medical Assistance,* November 2016.

HOUSE RESEARCH | Short Subjects

Joel Michael and Sean Williams **Updated: December 2017**

Revenue Recapture Program

Revenue recapture allows state and some local governments to collect debts by intercepting tax refunds

Revenue recapture authorizes the Department of Revenue (DOR) to intercept or offset part or all of a state tax refund or other payment to collect a debt that the taxpayer owes to a government agency or other authorized creditor. The following agencies may use the Revenue Recapture Program:

- State agencies
- University of Minnesota
- Minnesota district courts
- Counties
- Cities, including for public library debts
- Governmentally owned hospitals and Regions Hospital
- Agencies responsible for child support enforcement
- Agencies that administer low-income housing programs
- Licensed ambulance services

A variety of debts qualify for collection using recapture

The debt (minimum amount of $25) must be owed to or collectable by one of the qualifying governmental agencies. The debtor must be an individual; the law does not apply to corporations. The creditor does not need to obtain a court judgment or order to enforce the debt. Qualifying debts include the following:

- Contractual or statutory obligations
- Criminal fines and fines for petty misdemeanors
- Court-ordered restitution for a crime
- Child support obligations
- Overpayment of public assistance
- Unpaid MinnesotaCare insurance premiums

Obligations of low-income individuals (incomes between $12,620 and $23,840 for care provided in 2016, depending upon family size) to repay debts for medical care, including hospitalization, cannot be recaptured. Debts barred by the statute of limitations also cannot be recaptured.

Tax refunds are applied first to unpaid taxes, interest, and penalties before revenue recapture takes effect to offset qualifying debts.

Some types of refunds are subject to recapture

Revenue recapture applies to the following:

- Individual income tax refunds
- Property tax refunds
- Sustainable forest incentive payments
- Lottery prizes

The claimant must notify debtor about revenue recapture

Under revenue recapture, a claimant (creditor) agency submits the claim (debt) to DOR for offset. Within five days after doing so, it must notify the debtor-taxpayer in writing of the debt(s) that will be subject to revenue recapture. The taxpayer then has 45 days to request a hearing, which the claimant agency initiates; the hearing is conducted as a contested case under the Administrative Procedures Act.

Child support has first priority for collection

When more than one debt is submitted, the debts are applied in the following order of priority:

- Child support obligations
- Restitution obligations
- Claims submitted for a hospital or ambulance service
- Other debts based on the order in which DOR received the claims

DOR accounts receivable (e.g., unpaid taxes, interest, and penalties) are offset before claims under revenue recapture.

A $15 administrative fee applies

A fee of $15 per claim is first deducted from the refund, and the claimant agency receives the balance of the refund or the claim amount, whichever is less. Of this $15, $4 is set aside in a dedicated, revolving fund to pay DOR's cost of operating the program; the rest goes to the state's general fund.

Over $66 million was recaptured in 2016

The table to the right shows the number of revenue recapture offsets and amount of refunds offset for calendar years 2012 to 2016.

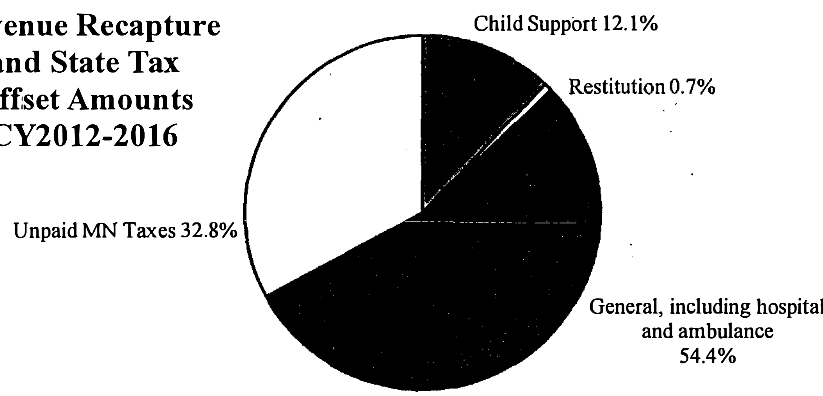
The graph below shows the percentage of revenue recapture amounts and tax debts offset for calendar years 2012 to 2016 by four of the major types of debts for which the law sets priorities.

Revenue Recapture Amounts CY2012-2016

	Number of Offsets	Amount of Recapture
2012	231,085	$71,699,789
2013	228,262	$67,983,144
2014	238,154	$68,557,048
2015	225,722	$68,203,645
2016	214,030	$66,433,954

Data exclude offsets to satisfy federal debts and taxes, and for unpaid state taxes. In 2016, $16,998,209 in federal debt and taxes was offset, and there were 91,530 offsets for $30,612,243 in unpaid state taxes.
Source: DOR

Revenue Recapture and State Tax Offset Amounts CY2012-2016



For more information: See www.revenue.state.mn.us/collections/Pages/Revenue_Recapture.aspx for more information, or contact the Department of Revenue at 651-556-3037; or email at revenue.recapture@state.mn.us.

Randall Chun Updated: December 2017

MinnesotaCare: An Overview

MinnesotaCare is administered by the Minnesota Department of Human Services (DHS) under federal guidance as a Basic Health Program that provides subsidized health care coverage to low-income individuals. DHS, in cooperation with MNsure, the state's health insurance exchange, is responsible for processing applications and determining eligibility.

Eligibility

Most MinnesotaCare enrollees are parents and caretakers, children ages 19 to 20, and adults without children.

To be eligible for MinnesotaCare, an individual must meet the following criteria:

- Have gross income that is greater than 133 percent of the federal poverty guidelines (FPG) ($16,039 for a household of one) but does not exceed 200 percent of FPG ($24,120 for a household of one). Exceptions to the income floor are made for certain children under age 19 and legal noncitizens, who are not eligible for MA.
- Not be eligible for Medical Assistance (MA). This requirement has the effect of shifting the vast majority of pregnant women and children from MinnesotaCare to MA.
- Not have access to subsidized health coverage that, as defined in the federal Affordable Care Act (ACA), is affordable (the employee pays no more than 9.56 percent of income for self-only coverage for 2018) and provides minimum value (pays for at least 60 percent of medical expenses on average).
- Not have minimum essential health coverage (defined in the ACA as coverage under Medicare, Medicaid and other government programs, employer-sponsored coverage, individual market coverage, and other specified coverage).
- Be a resident of Minnesota. Enrollees must meet the residency requirements of the MA program.

Covered services

Enrollees age 21 and over are covered for most, but not all, services covered under MA. Covered services include physician care, hospitalization, prescription drugs, therapy services, and a wide range of other health care services. Services not covered include personal care attendant services, private duty nursing, nursing home care, ICF/DD (intermediate care facility for persons with developmental disabilities), and special transportation services.

Children ages 19 and 20, and certain children under age 19, receive coverage for a broader range of services than adults.

Premiums and cost-sharing

Enrollees age 21 and older pay monthly, per-person premiums based on a sliding scale. Persons under age 21, and persons with incomes less than 35 percent of FPG, are not charged premiums. Adult enrollees are subject to copayments and other cost-sharing for specified services.

Provider reimbursement

Enrollees receive health care services through prepaid health plans. The MinnesotaCare program pays prepaid health plans a monthly capitation payment for each MinnesotaCare enrollee. MinnesotaCare does not set provider reimbursement rates; these rates are instead the result of negotiation between health care providers and the prepaid health plan.

MinnesotaCare as Basic Health Program

Under the ACA, states have the option of operating a basic health program to provide health coverage to persons with incomes greater than 133 percent but not exceeding 200 percent of FPG. The 2013 Legislature directed DHS to seek federal approval to operate MinnesotaCare as a basic health program. Federal approval was received December 15, 2014, and implementation began January 1, 2015. The legislature also made changes in MinnesotaCare eligibility, covered services, and service delivery necessary to meet federal requirements for a basic health program; many of these changes took effect January 1, 2014.

Expenditures and funding

In fiscal year 2016, the MinnesotaCare program paid $479.9 million for medical services provided to enrollees. About 24 percent of this cost was paid for by the state, 70 percent by the federal government, and 6 percent by enrollees through premium payments (this last category also includes enrollee cost-sharing).

Through 2014, the state received federal funding at the MA match rate for health care services provided to enrollees under a federal waiver. Since January 1, 2015, the state has received from the federal government a basic health program payment for each enrollee equal to 95 percent of the subsidy that the individual would have otherwise received through MNsure.

State funding for MinnesotaCare and other health care access initiatives is provided by a tax of 2 percent on the gross revenues of health care providers and a tax of 1 percent on the premiums of nonprofit health plan companies. The tax on health care provider revenues is scheduled to sunset January 1, 2020. Prior to that date, the Commissioner of Management and Budget is required to reduce the rate of the tax on health care provider revenues if certain financial criteria are met.

Recipients

As of August 2017, 92,421 individuals were enrolled in the MinnesotaCare program.

Application procedure

MinnesotaCare applications can be obtained by calling the Department of Human Services (1-800-657-3672) or MNsure, the state's health insurance exchange (1-855-366-7873). Applications are also available at county human services agencies and other locations.

For more information: See the House Research information brief *MinnesotaCare*.

Randall Chun

Updated: December 2017

Medical Assistance: An Overview

Medical Assistance (MA), the state's Medicaid program, is a federal-state program that pays for health care services for low-income individuals. The program is administered by counties, under the supervision of the state Department of Human Services (DHS). Federal Medicaid law allows states considerable flexibility in designing their Medicaid programs.

Eligibility

To be eligible for MA, an individual must meet the following criteria:

- Be a member of a group for which MA coverage is mandatory under federal law or a member of an optional group that the state has chosen to cover. Covered groups include families, children, pregnant women, the elderly, persons with disabilities, and adults without children.
- Meet program income and any applicable asset limits. Certain types of income and specified assets are excluded when determining eligibility. Income and asset limits for selected groups are described below.
- Be a U.S. citizen or a noncitizen who meets specified immigration criteria.
- Be a resident of Minnesota.
- Meet other program eligibility requirements.

Eligibility group	Net income limit, as % of federal poverty guidelines (FPG)	Asset limit*
Children < age 2	283	None
Children 2 through 18	275	None
Children 19 through 20	133	None
Pregnant women	278	None
Parents and caretakers	133	None, unless on spenddown
Age 65 or older, blind, or have a disability	100	$3,000 for one/$6,000 for two/$200 each additional
Adults without children	133	None

* The homestead, household goods, a vehicle, a burial plot and certain assets for burial expenses, and other specified items are not counted as assets.

Some individuals with incomes over these limits can also qualify for MA through a spenddown. Under a spenddown, an individual must incur medical bills in an amount that is equal to or greater than the amount by which the individual's income exceeds the spenddown limit of 133 percent of FPG for families and children and 80 percent of FPG for individuals who are age 65 or older, blind, or have a disability. There is no spenddown for adults without children.

Covered services Minnesota provides all federally mandated services and most services designated by the federal Medicaid program as optional. These services include, but are not limited to: physician care, hospitalization, therapy and rehabilitation, dental, medical equipment and supplies, home health care, health clinic services, mental health, prescription drugs, medical transportation, nursing home, and intermediate care facility for persons with developmental disabilities (ICF/DD) services. Adult enrollees who are not pregnant are subject to copayments for certain services.

The state has also received federal approval to provide home and community-based "waivered services" not normally covered by Medicaid that are intended to allow individuals to remain in the community, rather than reside in a hospital, nursing home, or intermediate care facility for persons with development disabilities (ICF/DD).

Provider reimbursement The MA program reimburses providers under both a fee-for-service system and a managed care system (composed of the Prepaid Medical Assistance Program or PMAP, county-based purchasing initiatives, and programs for the elderly and persons with disabilities). In recent years. DHS has used competitive bidding to select managed care and county-based purchasing plans to deliver services to MA enrollees who are families and children.

Funding and expenditures In state fiscal year 2016, total state and federal MA expenditures for services were $11.192 billion. The federal share of MA costs is determined by a formula based on state per capita income. In most fiscal years, the federal government has paid 50 percent of the cost of MA services, with Minnesota responsible for the remaining 50 percent. The federal government is providing an enhanced federal match, initially 100 percent of the cost of services and phasing down to 90 percent, for services provided to adults without children.

Recipients During state fiscal year 2016, an average of 1,079,407 individuals were eligible for MA services each month. As of July 2017, 846,115 MA recipients received services through the MA managed care system, with the remaining enrollees served through fee-for-service.

Application procedure Individuals interested in applying for MA should contact their county human services agency or MNsure, the state's health insurance exchange.

For more information: See the House Research information brief *Medical Assistance.*

HOUSE RESEARCH | Short Subjects

Nina Manzi and Sean Williams December 2017

Major State Aids and Taxes: An Overview of the 2014 Update

This provides a brief overview of the report *Major State Aids and Taxes: A Comparative Analysis, 2014 Update*, which highlights major aids provided to the local governments and people in Minnesota and lists the major taxes collected. The per capita amounts were calculated using 2013 population. Some aids are presented on a different basis in other settings (e.g., per pupil for education aid); however, in the report they are presented on a per capita basis to allow comparison of different aids.

STATE AIDS

Program	Year	Amount (millions)	Per Capita
Education aid *Aid paid to school districts for all K-12 educational expenses*	2013/2014 (school year)	**$7,901.2 State** $4,509.6 Metro $3,391.6 Nonmetro	**$1,449 State** $1,514 Metro $1,371 Nonmetro
Human services aid *State's share of human services aid for various income and medical assistance programs*	2014	**$5,737.9 State** $3,249.7 Metro $2,488.0 Nonmetro	**$1,052 State** $1,091 Metro $1,006 Nonmetro
Highway aid *Distributed to counties, cities, and towns for highway purposes*	2014	**$721.1 State** $235.5 Metro $485.6 Nonmetro	**$132 State** $79 Metro $196 Nonmetro
Local government aid *Provides property tax relief by providing general purpose financial support to cities*	2014	**$507.6 State** $172.3 Metro $335.3 Nonmetro	**$93 State** $58 Metro $136 Nonmetro
Disparity reduction aid *Provides aid to jurisdictions (counties, towns, and school districts) that had inordinately high tax rates in 1988*	2014	**$18.0 State** $1.4 Metro $16.6 Nonmetro	**$3 State** – Metro $7 Nonmetro
County program aid *County general purpose aids: includes former homestead and agricultural credit, county criminal justice aid, family preservation aid, and attached machinery aid*	2014	**$205.5 State** $98.1 Metro $107.4 Nonmetro	**$38 State** $33 Metro $43 Nonmetro
Community corrections funding *Aid that provides a portion of counties' costs for community correctional services*	2014	**$86.3 State** $41.7 Metro $44.6 Nonmetro	**$16 State** $14 Metro $18 Nonmetro
Property tax refund (excludes targeting) *Reimburses homeowners and renters for a portion of property taxes if those taxes exceed a household income threshold*	2013 (filed in 2014)	**$584.1 State** $403.5 Metro $180.6 Nonmetro	**$107 State** $135 Metro $73 Nonmetro
Targeting *Additional homeowner property tax refund if property taxes increased a certain percentage threshold over previous year (no income limits)*	2013 (filed in 2014)	**$1.5 State** $0.8 Metro $0.7 Nonmetro	**– State** – Metro – Nonmetro

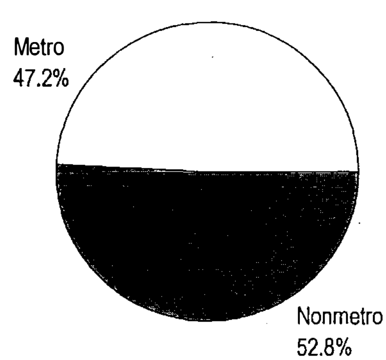
MAJOR TAXES

	Year	Amount (millions)	Per capita
Individual income tax *Imposed on income of state residents and income derived from state sources of nonresidents*	2013 (filed in 2014)	**$8,781.7 Total** **$8,225.3 Residents** $5,517.9 Metro $2,707.4 Nonmetro	**$1,508 State** $1,852 Metro $1,094 Nonmetro
Sales and use tax *Imposed on gross receipts of people who sell, lease, or rent tangible personal property at retail at a rate of 6.5 percent (does not include local sales taxes)*	2014	**$5,436.5 (After refunds)** **$4,510.0 Residents** $2,919.8 Metro $1,590.2 Nonmetro	**$827 State** $980 Metro $643 Nonmetro
Motor vehicle sales tax *Imposed on new and used motor vehicles at the time of sale at the same rate of state sales tax*	2014	**$746.4 State** $393.3 Metro $353.1 Nonmetro	**$137 State** $132 Metro $143 Nonmetro
Motor vehicle registration tax *Imposed annually on vehicles licensed in the state*	2014	**$666.7 State** $363.3 Metro $303.4 Nonmetro	**$122 State** $122 Metro $123 Nonmetro
Motor vehicle fuels tax (gas tax) *Imposed on gasoline, diesel fuel, and other motor fuels used by vehicles and on aviation fuels*	2014	**$882.7 State** $418.0 Metro $464.7 Nonmetro	**$162 State** $140 Metro $188 Nonmetro
Corporate franchise (income) tax *Imposed at a rate of 9.8 percent on the net income of corporations (or alternative minimum tax)*	2014	**$1,177.0 State** $838.1 Metro $338.9 Nonmetro	**$216 State** $281 Metro $137 Nonmetro
State general property tax *Imposed on commercial/industrial/public utility property and seasonal recreational property*	2014	**$846.7 State** $533.9 Metro $312.8 Nonmetro	**$155 State** $179 Metro $126 Nonmetro

PROPERTY TAX DATA, PAYABLE 2014

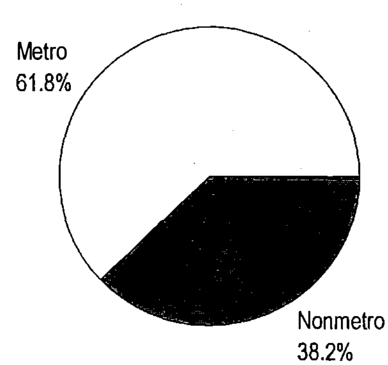
Market Value

Total statewide: $546.0 billion



Net Property Tax

Total statewide: $8.7* billion



* Includes state general property tax

For more information: Contact legislative analyst Sean Williams (sean.williams@house.mn). See *Major State Aids and Taxes: Comparative Analysis, 2014 Update* (December 2017) for further details about each aid program and tax and data by county and economic development region.

The Research Department of the Minnesota House of Representatives is a nonpartisan office providing legislative, legal, and information services to the entire House.

Colbey Sullivan Updated: December 2017

Budget Forecasts, Surpluses, and Deficits

When are economic forecasts prepared?

The commissioner of Minnesota Management and Budget (MMB) must prepare a forecast of general fund revenues and expenditures twice each year—in February and November. Employment levels, wages, sales of taxable goods and services, health care costs, the number of children enrolled in public schools, and numerous other factors influence state expenditures and receipts. The forecast attempts to predict how these factors will collectively impact the state budget during the forecast period.

How are the forecasts used?

The forecasts inform the governor's budget proposals and the legislature's development of tax and spending laws. In this way, the legislature and governor use the forecasts to develop and enact a balanced general fund budget in which total biennial revenues meet or exceed total expenditures.

The November forecast in *even-numbered* years informs the governor's initial biennial budget recommendations to the legislature. For example, the November 2016 forecast provided the revenue and expenditure projections for Governor Mark Dayton's preliminary budget proposal for the fiscal year 2018-2019 biennium, which runs from July 1, 2017, to June 30, 2019. The same November 2016 forecast projected that the state was on track to finish the fiscal year 2016-2017 biennium with a positive general fund balance.

The February forecast updates the preceding November forecast with any new economic, revenue, and spending data. Following the February 2017 forecast, Governor Dayton submitted revised budget recommendations informed by the latest revenue and expenditure estimates. Similarly, the February 2017 forecast provided the revenue and expenditure projections that the 2017 Legislature used to enact a state budget for the fiscal year 2018-2019 biennium. It also provided the final comprehensive update on the status of general fund revenues and expenditures in the remaining months of the fiscal year 2016-2017 biennium.

The November forecast in *odd-numbered* years and the February forecast in *even-numbered* years update revenue and expenditure estimates for the current biennium. Using the projections in the November 2017 and February 2018 forecasts, Governor Dayton may propose modifications to the enacted fiscal year 2018-2019 budget. The 2018 Legislature will use the latest projections in the February 2018 forecast to determine whether budgetary changes are needed for the fiscal year 2018-2019 biennium to close with a balanced general fund budget.

What if a forecast predicts a general fund deficit?

If a balanced budget is enacted but a subsequent forecast projects a general fund deficit in the *current* biennium, the commissioner of MMB may access funds in the budget reserve account as needed to pay for all enacted expenditures. If there is not enough money in the budget reserve to balance the general fund in the current biennium, the commissioner may also selectively reduce or delay existing appropriations, commonly referred to as "unalloting." Before reducing the budget reserve or unalloting general fund appropriations, the commissioner must obtain the approval of the governor and consult the Legislative Advisory Commission. If the legislature is in session or will soon convene, the governor typically makes recommendations to the legislature on how to resolve the shortfall before approving use of the budget reserve or unallotment.

What if the forecast predicts a general fund surplus?

If a forecast projects a general fund surplus for the current biennium, the commissioner of MMB must allocate the surplus in priority order as follows:

1. to the cash flow account, until it reaches $350 million (currently satisfied)
2. to the budget reserve account, until it reaches $1,596,522,000 (currently surpassed)
3. to increase the school aid payment schedule to 90 percent, in increments of one-tenth of 1 percent with any residual amount remaining in the budget reserve (currently satisfied)
4. to restore previous school aid reductions and reduce the property tax recognition shift accordingly (currently satisfied)
5. to the Clean Water Fund until $22 million has been transferred (unsatisfied – no money transferred to the Clean Water Fund to date)

If a November forecast projects a surplus and priorities (1) to (5) have been satisfied, MMB must transfer 33 percent of the remainder to the budget reserve until it reaches the balance recommended by MMB. No later than September 30 each year, MMB must assess the volatility of state tax revenues and report to the legislature any corresponding change in the agency's budget reserve benchmark.

Any surplus remaining after satisfying the five statutory priorities and transferring 33 percent of any remainder to the budget reserve is reported in the forecast as a positive general fund balance. For the fiscal year 2018-2019 biennium, as of the November 2017 forecast there is a projected deficit, or negative balance, in the general fund.

What are recent changes to the treatment of budget surpluses?

Laws 2014, chapter 150, required MMB to recommend a budget reserve level (specified as a percentage of general fund revenues for the current biennium), to update this percentage each January, and to transfer 33 percent of a November forecast surplus to the reserve. Laws 2015, chapter 77, pushed the commissioner's annual update back to September. Laws 2017, first special session, chapter 1, added the requirement to transfer $22 million of general fund surplus dollars to the Clean Water Fund.

For more information: Contact legislative analyst Colbey Sullivan at 651-296-5047. Also see the House Research publication *Unallotment: Executive Branch Power to Reduce Spending to Avoid a Deficit,* December 2010.

HOUSE RESEARCH | **Short Subjects**

Colbey Sullivan **December 2017**

State Response to Disasters

What is a disaster?

State and federal law generally define "disaster" as any catastrophe, including but not limited to a tornado, storm, high water, wind-driven water, earthquake, landslide, mudslide, snowstorm, drought or, regardless of cause, any fire, flood, or explosion.

What is the state's role?

A flowchart on the following page identifies key steps and decisions in the disaster response process. When disaster strikes, local government employees and volunteers are typically the first to respond. Staff with the state Department of Public Safety may provide early technical support and assistance. If the scope or cost of the disaster overwhelms local resources, the local government may declare an emergency and formally request assistance from the state. In response, the governor may declare a state of emergency and direct state agencies and the Minnesota National Guard to provide assistance. If the event exceeds the state's ability to respond, the governor may request assistance from the Federal Emergency Management Agency (FEMA) of the Department of Homeland Security. In coordination with the legislature, the governor may also convene a special legislative session to provide additional money for disaster relief.

What is the effect of a state or local declaration?

In addition to activating state and local disaster response and recovery plans, by law these formal declarations also activate certain statutory relief programs. Some programs are activated by local declarations (e.g., state-paid property tax abatements for certain damaged property), while others are activated only by a state or federal declaration (e.g., state agencies may temporarily waive fees in those counties included in a presidential disaster declaration).

When is a special session warranted?

Whether or not to convene a special session for disaster relief is largely a subjective decision based on the scope and severity of the damage. Prior to 2014, if a significant disaster occurred when the legislature was not in session, the governor typically would call the legislature into special session. In 2014, the legislature established the Disaster Assistance Contingency Account (DACA) to proactively set aside money to pay for certain disaster relief activities without additional legislative approval. There has been no special session for disaster relief since the DACA was established. However, the governor and legislature could determine that a special session is necessary, particularly if the DACA balance or eligible uses are not sufficient to provide adequate relief before the next regular session begins.

Are special sessions and DACA the only avenues for disaster relief funding?

No, during a subsequent regular session the legislature may appropriate money for a specific disaster event. For example, during the 2016 and 2017 regular sessions, the legislature appropriated money to help the city of Madelia recover from a downtown fire that occurred in February 2016.

HOUSE RESEARCH | Short Subjects

Colbey Sullivan

December 2017

Contingent Funding for Disaster Relief

What is contingent funding?

Contingent funding is money set aside by the legislature and appropriated to the executive branch as needed for eligible emergencies or other unanticipated events.

What is the purpose of contingent disaster relief funding?

In 2014, the legislature established the Disaster Assistance Contingency Account (DACA) so that state money would be available to promptly respond to and recover from a qualifying disaster when the legislature was not in session. The state constitution requires the legislature to adjourn each regular session before the end of May, but natural disasters often occur in the spring and summer months. Contingent disaster relief funding may obviate the need for the governor to call a special legislative session because DACA money is statutorily appropriated to the Department of Public Safety in the event of a qualifying disaster event.

What disaster events are eligible for DACA funding?

The table below identifies the four eligible uses of DACA dollars and briefly describes how DACA dollars are used in each case.

Eligible Uses of DACA Money

Category	DACA Role
Presidentially declared major disaster or emergency	Provides state dollars to fully match Federal Emergency Management Agency (FEMA) cost-share assistance to eligible state agencies, local units of government, Native American tribal governments, and private utility cooperatives. FEMA typically pays 75% of eligible disaster response and recovery costs; DACA dollars reimburse eligible entities for the remaining 25%.
State public disaster assistance (Minn. Stat. ch. 12B)	Provides state funding for grants to eligible state agencies, local units of government, Native American tribes, and private utility cooperatives when FEMA aid is not available. Reimburses 75% of an applicant's eligible costs; the applicant is responsible for the remaining 25%.
Federal Highway Administration emergency relief	Provides state funding to match federal aid to repair or reconstruct eligible federal-aid highways and roads on federal or tribal lands that either were damaged by a natural disaster or that experienced a catastrophic failure due to another external cause.

Category	DACA Role
United States Department of Agriculture emergency watershed protection	Provides state funding to match federal aid to state agencies, local units of government, Native American tribes, and private landowners for emergency erosion and flood control projects that protect life or property from an imminent threat.

What about other state disaster relief programs? DACA funds may only be used for the four purposes described above. If the legislature determines that a specific disaster event requires a more comprehensive relief effort, it may appropriate additional money for relief, including grants or loans to affected businesses, school districts, homeowners, and others. To activate and fund these other programs quickly, the governor may need to call a special legislative session.

What nonprofits are eligible for DACA funds? When the president declares a major disaster, certain private nonprofit organizations are eligible for federal assistance through FEMA's Public Assistance Program. Under federal law, qualifying nonprofits are those that provide a critical government-like service in the disaster area. Beginning July 1, 2017, utility cooperatives that receive FEMA aid are also eligible for DACA-funded state reimbursement of the remaining 25 percent of the cooperative's eligible costs. Previously the state did not pay this "nonfederal share" for any private organizations.

How is the DACA funded? The DACA is funded through two sources: money allocated by law and the automatic rollover of any unused money previously appropriated for disaster relief. By law, the governor's biennial budget proposal must recommend funding for DACA that reflects the executive branch's estimate of the amount of money that will be required during the next two-year budget cycle to fully match FEMA assistance to eligible entities and to provide state-only disaster assistance under chapter 12B.

Who administers it? By law, DACA money is appropriated to the Department of Public Safety, which has statutory authority to award this money to other state agencies and eligible recipients.

What if there is insufficient money in the DACA? If there is not enough money in the DACA, the governor could call a special session of the legislature and the legislature could appropriate additional money for disaster relief. Alternatively, the legislature could allocate additional money to the DACA during the next regular legislative session.

For more information: See the House Research publications *State Response to Disasters* (December 2017) and *State Disaster Aid for Public Entities and Utility Cooperatives* (December 2017). For legislative issues contact Colbey Sullivan at 651-296-5047.

HOUSE RESEARCH | Short Subjects

Colbey Sullivan

December 2017

State Disaster Aid for Public Entities and Utility Cooperatives

What is the state public disaster assistance program?

The state public disaster assistance program reimburses eligible applicants for costs incurred to prepare for, respond to, and recover from a significant disaster. The program is administered by the Minnesota Department of Public Safety – Division of Homeland Security and Emergency Management (HSEM) and is invoked only when federal aid is not available for the same purposes.

The legislature established the program in 2014 in cooperation with officials from the executive branch and local emergency managers. The legislature funds the program by allocating contingent funding to the Disaster Assistance Contingency Account in the Special Revenue Fund.

When is federal assistance unavailable?

Under federal law, when a disaster event is so significant that it is beyond the capabilities of the state and affected local units of government to effectively respond, the governor may request assistance from the Federal Emergency Management Agency (FEMA). FEMA financial aid takes two main forms: (1) aid to public entities and certain private nonprofits under the FEMA Public Assistance Program; and (2) aid to private individuals and households.

An applicant is not eligible for aid under the FEMA Public Assistance Program if the governor does not request a federal disaster declaration, the president denies the governor's request, or the president's declaration does not include the applicant's county. A presidential declaration may exclude a county when total eligible damages and costs in that county do not exceed a predetermined threshold.

Is the state program similar to FEMA's Public Assistance Program?

The state program borrows several features from the FEMA Public Assistance Program, including the use of county-based eligibility determinations. One important difference is that the damage threshold that must be met is significantly lower under the state program (i.e., 50 percent of the county's FEMA damage threshold).

Who is eligible for state public disaster assistance?

With one exception, only public entities are eligible for assistance under the state public disaster assistance program. Eligible public entities include state agencies; counties, cities, townships, school districts, and other local units of government; and Native American tribal governments. As of July 2017, private utility cooperatives are also eligible.

Are private individuals or businesses eligible?

No, with the exception of utility cooperatives. However private individuals, households, and businesses may be eligible for other state or federal disaster relief programs to the extent of available funding.

What is a qualifying disaster?

To qualify for the state program, all of the following conditions must be met:

- the governor or the chair of the applicable county board of commissioners formally declares a disaster or emergency during the incident period;
- federal disaster assistance is not available for the same purposes; and
- eligible entities in the applicant's county have collectively incurred eligible costs and damages that meet or exceed the following amount:
    - 50% x CPCI x CPOP, where:
        - CPCI = the county per capita impact indicator under FEMA's Public Assistance Program ($3.68/person for federal FY 2018)
        - CPOP = county population as of the latest decennial U.S. census

For example, Ramsey County's population was 508,640 in 2010. For a given disaster event during federal FY 2018, the City of Saint Paul is eligible for state public disaster assistance only when all eligible damages and costs in Ramsey County total $935,898 (i.e., 50% x $3.68 x 508,640) or more. When calculating Ramsey County's eligible damages and costs, HSEM would include amounts reported by all eligible entities in the county (e.g., the State of Minnesota; Ramsey County; the Capitol Region Watershed District; the cities of Maplewood, Roseville, North St. Paul, Saint Paul, etc.).

What activities qualify for state assistance?

Activities eligible for reimbursement are the same activities that would receive funding under the FEMA Public Assistance Program if federal aid were available to the recipient. Eligible activities fall within the following categories:

Emergency work: activities undertaken before, during, or after a disaster to save lives, protect public health and safety, or prevent damage to improved public and private property

Category A: Debris removal (e.g., branches, sand, mud, silt, demolition debris)
Category B: Emergency protective measures (e.g., sandbagging, evacuation and sheltering)

Permanent work: work required to restore a facility to its predisaster design (size and capacity) and function, according to applicable codes and standards

Category C: Roads and bridges (e.g., paved, gravel or dirt roads; culverts)
Category D: Water control facilities (e.g., dams, storm water retention ponds)
Category E: Public buildings and equipment (e.g., court houses, vehicles, school buildings, file recovery)
Category F: Public utilities (e.g., sewage treatment, a co-op's transmission lines)
Category G: Parks, recreational, and other facilities (e.g., playground equipment, tennis courts, picnic tables)

Does the state fully reimburse?

State assistance is limited to 75 percent of the applicant's eligible and documented costs. The applicant is responsible for the remaining 25 percent.

For more information: See the House Research publications *State Response to Disasters* (December 2017) and *Contingent Funding for Disaster Relief* (December 2017). For legislative issues, contact Colbey Sullivan at 651-296-5047.