

2016 LSS Public Policy Summary

The 2016 Minnesota legislative session, and second year of the biennium, began in March with a \$900M surplus, a split government of a Democrat controlled Governor's office and Senate, and a Republican controlled House of Representatives. As the even year of the biennium, the focus of the session was a bonding bill as well as wrapping up a transportation budget bill and tax bill that were not resolved in 2015.

In initial proposals, House Republicans proposed no supplemental budget spending whereas the Governor and the Senate proposed spending more than half the surplus on supplemental budget items. A supplemental budget bill agreement was reached that included \$182M in total spending, \$80M in Health and Human Services. Many requests of significant spending were not included in the final law.

No agreement was reached on a bonding bill or transportation bill and the tax bill expired without the Governor's signature. Leadership is currently negotiating an agreement to resolve these outstanding issues in hopes that the Governor will agree to call a special session.

In November 2016, all House and Senate seats will be up for election. 21 House and Senate incumbents are not running again. The next legislative session will commence on January 3, 2017.

LSS activity at the Capitol, spending items and policy changes that relate to LSS lines of service are included below.

LSS at the Capitol

LSS presence at the Capitol is integral to legislators understanding of how the decisions they make impact the people LSS supports. LSS connected with legislators in 2016 through the following activities:

- **LSS employees testifying in legislative committees:** Jodi Harpstead, Cate Rysavy, Louisa D'Altilia, Marcus Kuboy, and Susie Schatz.
- **PSS Day at the Capitol:** 130 staff advocates and self-advocates met with 40 legislators to advocate for a rate increase for Home and Community Based Services (HCBS). The LSS advocates joined with other Best Life Alliance members for a rally covered in [this news segment](#).
- **LSS Board Day at the Capitol:** Six Board Members attended a training and met with ten legislators.
- **Duluth Youth Council Day at the Capitol:** Four youth and four staff from the LSS' Youth Leadership Council participated in Foster Care Day at the Capitol and met with four legislators to advocate for a Foster Care rate increase. Two LSS Foster parents attended with their children and met with their legislators to share their story.
- **Advocacy Bootcamp** brought 35 LSS employees to the Capitol for an all-day training including meetings with four legislators to advocate for a rate increase for HCBS. The training included a tour of the Capitol and presentations by legislators, advocates and LSS Advocacy staff.
- **One action alert** sent, generated over 1000 emails to legislators and the Governor.

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- **Multiple alerts sent to LSS staff in targeted districts** generated an estimated 100 contacts.
- **Biweekly legislative update calls** averaged 25 LSS employees participating per call.
- **The LSS Advocacy Office** met with over 70 legislators.
- **CEO Group of the Best Life Alliance**, facilitated by LSS Advocacy staff, generated at least 10 letters to the editor around the state and CEO advocacy led to the postponement of a proposal to dramatically increase 245D fees in the HHS bill.

2016 Public Policy Outcomes

LSS Public Policy Priority – Accelerate community life for individuals with disabilities and older adults

Increase Rates for Home and Community-Based Services

Despite the majority of legislators signing on as coauthors and a comprehensive grassroots and media strategy, a rate increase for home and community based services was not passed.

Reform Medical Assistance

An increase in the spenddown and asset limit was not passed.

HCBS Incentive Pool

Language was passed that “codifies”, or makes permanent, the HCBS Incentive Pool which was passed into law and funded for the first time last year. There was not an increase to this pool.

LSS Personal Support Services and LSS Older Adults Services

Disability Waiver Rate System (DWRS) Data Posting

Clarifies the specific DWRS financial and wait list data sets that the Commissioner is required to post on the Minnesota Department of Human Services (DHS) website. The financial data must include the following:

- The most recent end of session forecast available for the disability HCBS waiver programs; and
- The most current financial information, updated at least monthly, for the disability HCBS waiver programs for each county and tribal agency; including
 - The amount of resources allocated;
 - The amount of resources authorized for participants; and
 - The amount of allocated resources not authorized and the amount not used.

The waiting list information must be provided quarterly beginning August 1, 2016, and must include the following:

- The number of persons screened and waiting for service, listed by urgency category, the number of months on the wait list, age group, and the types of services requested by those waiting;
- The number of persons beginning waiver services who were on the waiting list, and the number of persons beginning waiver services who were not on the waiting list;
- The number of persons who left the waiting list but did not begin waiver services; and

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- The number of persons on the waiting list with approved funding but without a waiver service agreement and the number of days from funding approval until a service agree is effective for each person.

The bill directs the Commissioner to compile a report and post it to the department's web site by December 1st of each year that will include the following:

- The financial information, listed above, for the most recently completed allocation period;
- The waiting list information, listed above, for the previous four quarters;
- For a 12-month period ending October 31st, a list of county and tribal agencies required to submit a corrective action plan;
- For a 12-month period ending October 31st, a list of the county and tribal agencies from which resources were moved, the amount of resources taken from each agency, the counties that were given increased resources as a result, and the amounts provided.

The Governor is encouraged to consider including in his 2018-2019 budget for DHS a proposal for establishing rate floors for HCBS after the end of the current banding period.

Spousal Anti-Impoverishment/Treatment of Spousal Assets for Medical Assistance Eligibility

Minnesota is being required to apply new federal rules regarding how a married couple's assets are treated when a person is seeking Medical Assistance (MA) for long-term care (LTC) services through a HCBS waiver program and/or for Community First Services and Supports (CFSS).

Prior to this requirement, Minnesota only counted the income and assets of the spouse who is applying for MA payment of LTC services. Under the new rules, the state will count the couples' combined assets and divide those assets in half. Due to the change passed in the HHS proposal in 2016, the spouse who is not seeking LTC services will retain half of their combined assets (up to a maximum of \$119,220), and the spouse receiving LTC will be subject to the spenddown to 80% of the Federal Poverty Level and the remainder of the assets until \$3,000 is left. Effective June 1, 2016 for new applicants and March 1, 2017 for current enrollees.

Changes in 2016 also include a provision to allow a family to seek a "hardship waiver" to protect assets in specific retirement savings accounts or college savings plans. Implemented effective June 1, 2016, but subject to approval by the Centers for Medicaid and Medicare Services (CMS).

Action Plan to Increase Community Integration of People with Disabilities

Requires the Commissioners of Human Services, Education, Department of Employment and Economic Development (DEED), and Information Technology to develop a collaborative action plan in alignment with the state's Olmstead Plan to increase community integration of people with disabilities, including housing, community living, and competitive employment. Recommendations must include a proposed method to allow people with disabilities who access services from state agencies to access a unified record of the services they receive. This method must also allow people with disabilities to efficiently provide information to multiple agencies regarding service choices and preferences. Recommendations for this action plan must be provided to

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the legislature by January 1, 2017, and must include proposed statutory changes, including any changes necessary to the data practices act to allow for data sharing, and information technology solutions required to implement the actions.

Consumer Directed Community Supports (CDCS) pilot extension for transition age kids

This option is extended and makes other improvements. This extension and other CDCS policy improvements passed in 2015, but its implementation was contingent upon approval by CMS. Approval was delayed, thus the necessity for this extension. This legislation will help up to 50 people who are graduating this year remain on CDCS.

Office of Ombudsman for Long-Term Care

Currently, the office is housed in state law under the Minnesota Board on Aging (MBA). This law modifies language in numerous laws, including removing some of the board's authority over the office. The office works to improve quality of life and long-term care by advocating for reforms to state law, federal law and administrative policy. The office gains the authority to examine certain LTC facilities and state records related to a specific case it is investigating. However, the office would only be able to obtain the records without consent of a patient's legal guardian if the office believes the guardian is not acting in the best interest of the client.

Funding for Staff to Assist State Agencies and the Governor's Council on Developmental Disabilities in Carrying out Olmstead Plan Work

\$148,000 per year in ongoing funding allocated to state agencies including the Governor's Council on Developmental Disabilities for work related to requirements in the state's Olmstead Plan.

Funding for Jensen Settlement and Olmstead Plan Related Work at the Minnesota Department of Human Services

\$100,000 in the next fiscal year, and \$250,000 in the following years to DHS to assist in carrying out Jensen Settlement and Olmstead Plan requirements.

Housing Support Services for Minnesotans with Disabilities

Requires the Commissioner to design comprehensive housing services to support an individual's ability to obtain or maintain stable housing. By February 1, 2017, the Commissioner must present an update to the legislature on the progress of the proposal with recommendations on legislative changes and funding necessary to implement the proposal. In developing this proposal, the Commissioner must consult with stakeholders, including people who may utilize the service, advocates, providers, counties, tribes, health plans, and landlords.

LSS Youth Services

Homeless Youth Act

The Homeless Youth Act was increased by \$33K in FY 2017; \$2.9M in FY 2018-2019 (DHS); FY 18-19, the HYA will be at \$11.171M per biennium.

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Safe Harbor for Sexually Exploited Youth

Safe Harbor is increased by \$33,000 in FY 2017; in FY 18-19, increased by \$3M (DHS/MDH), for a total of over \$11M ongoing per biennium for emergency, transitional and long term shelter for youth who have been or are at risk of being sexually exploited.

Student Discipline Task Force

A task force is formed to look at the Pupil Fair Dismissal Act and student discipline issues and to issue a report on how to improve disciplinary policies, practices, and procedures as they affect students and school officials and the effects on student outcomes.

Student Support Personnel

A new matching grant program is established to help schools hire new school support personnel. School support personnel include school counselors, school psychologists, school social workers, school nurses and chemical dependency counselors. After every fiscal year, schools that received a grant must report on how hiring new school support personnel impacted two of the following measures: school climate, attendance rates, academic achievement, career and college readiness, and postsecondary completion rates. \$12.1M is appropriated.

LSS Housing Services (including LSS Portland House)

Landlord Guarantee Fund

Funding included in the equity article to help landlords rent to people with poor rental histories.

MN Housing Finance Agency Programs receiving increases:

Exploited Women and Children Rental Assistance - FY17: \$500k

Housing Grants for Projects with Training Centers - FY17: \$500k

Workforce and Affordable Housing Program - FY17: \$750k

FHPAP: Increases eligibility age to 24; expands eligibility to American Indian tribes or groups of tribes.

Criminal and Juvenile Justice Information Advisory Group

The Criminal and Juvenile Justice Information Policy Group has changed its name to the Criminal and Juvenile Justice Information Advisory Group. Its work goes beyond CrimNet and is to serve as the advisory group on statewide criminal justice information policy and funding issues. It includes representatives from many organizations.

Reentry

\$300,000 matching grants are available to counties or groups of counties for reentry and halfway house services that have proven to reduce recidivism.

Sentencing Guidelines

Thresholds for controlled substance crimes are changed so that those with low level offenses have shorter sentences and those with larger amounts of controlled substances or with an aggravating factor will receive longer sentences. This is an attempt to decriminalize substance use disorders. A Community Justice Reinvestment Account is created whose funds can be used to provide a grant to establish or operate chemical

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dependency and mental health treatment programs, programs that improve supervision and programs to reduce recidivism of controlled substance offenders on probation or supervised release or to fund drug court initiatives. \$488K available for grants.

LSS Financial Services**

School loan repayment counseling technical change – will allow LSS to serve more borrowers and be paid retroactively (to July 1, 2015) for previously served borrowers.

LSS Behavioral Health Services and Therapeutic Foster Care

Veterans Mental Health Study

\$150K – assessment of unmet mental health needs of veterans statewide; LSS, Wilder and MDVA likely to partner. Report is due to the legislature February 15, 2017.

School Linked Mental Health Grants

Increased by \$33K for FY17; \$1,450,000 in FY18-19. Funds will go to current grantees to expand services to school buildings or school districts or counties that do not have any grants or to provide training on evidence-based practices. The funding for FY 17 will be added to the competitive grant cycle.

Northstar Care for Children

A 15% rate increase was passed which begins July 1, 2017 for FY18-19. For children ages 0-5 the rate will be \$650 a month, ages 6-12 \$770 per month and ages 13 and older \$910 a month.

Fetal Alcohol Spectrum Disorders Training

Child foster care parents will be required to take one hour of training on fetal alcohol spectrum disorders within the first 12 months of obtaining their license and training on this topic will count towards their 12 hours of yearly continuing training.

Commissioner Required to Reform Minnesota's Substance Use Disorder Treatment System

DHS Commissioner required to design a reform of Minnesota's substance use disorder treatment system to ensure a full continuum of care for individuals with substance use disorders. A report on this reform proposal is required by February 1, 2017. , DHS is required to submit a waiver to CMS allowing Minnesota to receive MA funds for substance abuse treatment services provided in IMDs (Institutions for Mental Disease).

Certification Process for Community Behavioral Health Clinics

Both policy language and related funding (FY17 \$188K; FY18-19 \$8.4M) to support next steps related to the Excellence in Mental Health Demonstration project that passed last session. This federal demonstration project tests a new model of providing and paying for integrated and coordinated mental health and substance use disorder treatment and services. DHS applied for and was one of 24 states that received a federal planning grant for the development of Certified Community Behavioral Health Clinics (CCBHCs). In order to move into the next step in the process, and possibly be one of eight states chosen to participate in the demonstration project, the state must enact certification standards and certify at least two CCBHCs, one urban and one rural, by

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October 1, 2016, establish a cost-based prospective payment system and appropriate the state share of MA for the services, apply to participate in the demonstration project in October 2016, and begin providing services in the certified clinics by January 1, 2017. The demonstration period, if selected, is for years 2017 and 2018.

State Operated Program: Operating adjustment of \$8M this biennium and \$13.5 M the next biennium and additional one time funding of \$28M to restore the fund that DHS moved from mental health to make up a deficiency in the Minnesota State Operated Services program.

Funds were increased to State Operated Programs to provide a competency restoration program at St Peter, increase staffing at the Community Behavioral Health Hospitals (CBHH) so that all the beds are used, closing the St. Peter CBHH, and other changes.

Requires a report to the legislature on Anoka Treatment Center, Minnesota Security Hospital, and CBHH. The report will contain the number of licensed beds, budgeted capacity, occupancy rate, number of Occupational Safety and Health Administration (OSHA) recordable injuries and the number of OSHA recordable injuries due to patient aggression or restraint, number of clinical positions budgeted, the percentage of those positions that are filled, the number of direct care positions budgeted, and the percentage of those positions that are filled.

Duty to Warn Extension

Expands the Duty to Warn and its related protections beyond licensees to include students and interns in areas of psychology, marriage and family therapy, and alcohol and drug counseling.

Broadening Eligibility for the Crisis Housing Assistance Program

This funding, which pays for rent up to 90 days while someone is hospitalized or in residential treatment, is expanded by making people with serious mental illnesses eligible by removing “persistent” from description.

Integrated Care Project

Funding of \$200,000 is included to fund the Zumbro Valley Health Center demonstration project to test an integrated behavioral health care coordination model.

Pre- and Postpartum Mood and Anxiety Disorders

If a federal grant is obtained, the MDH can provide culturally competent programs to screen and treat pregnant women and women who have given birth in the preceding 12 months for pre- and postpartum mood and anxiety disorders. Can be used to establish or expand screening and treatment programs in primary care settings, train providers, provide psychiatric consultations, conduct a public awareness program, establish connections with community-based resources, or fund start-up costs for telephone warmlines or websites.

Foster Care and Residential Treatment

Clarifies that foster parents and residential treatment facility staff that follow “reasonable and prudent” parenting standards related to participation in sports, extracurricular, enrichment, cultural and social activities are not civilly liable if the child is hurt or injured.

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Transition to Adulthood

Children who are under guardianship of the state or who leave foster care at 18 to 21 years of age and those children over age 14 who are in voluntary placement due to their mental illness or disability, will have an independent living plan developed. This plan which will be reviewed by the court, including information related to housing, health insurance, education, mentors, community support, etc.

Extension of the Legislative Taskforce on Child Protection

Extends the Legislative Taskforce on Child Protection to December 31, 2020, and makes changes to the focus and individuals on the taskforce. Requires the taskforce to meet at least quarterly and directs the taskforce to also focus on exploring alternatives to removing children from homes as well as reform of family foster care payment rates.

Racial Equity

Many grants typically included in DEED, MHFA and other areas were grouped into one “Equity” article to address racial disparities, some of these changes were included in other sections of this summary. Examples include grants for immigrant work programs, and job training in low income communities. Policymakers dedicated \$35M in FY17 and \$35M in FY 2018-19 for equity initiatives such as:

- \$6.9M in grants for the Latino, Somali, Southeast Asian, and American Indian communities to address educational, employment, and workforce disparities, and to support youth
- \$1.5M to promote high-wage, high-demand nontraditional jobs for women.
- Expansion of Family Stabilization Plan Program - \$500k in FY17, \$1M in FY17-18.
- \$2M to provide job training, employment preparation, job assistance to fathers, behavioral interventions for low-performing students and youth intervention;
- \$4.25M for EMERGE Community Development for employment readiness, training and job placement.
- \$1M to Centers for Independent Living

Other Relevant Items

Pre-Kindergarten

\$25M to fund voluntary pre-kindergarten opportunities for 4yearolds during the 2016-17 school year. \$55M in FY18-19.

Broadband

\$35M investment in Broadband, \$5M to underserved areas, defined as areas where households and businesses have internet speeds slower than the state’s 2026 goals. Up to \$500,000 for areas with significant low-income populations. The final funding for broadband is much closer to the proposed House figure of \$15 million than the Governor and Senate proposals of \$100M and \$85M, respectively.

Notable items NOT included in the final bills passed:

NOT PASSED: Bonding bill, which included \$45M to expand affordable housing. *This bill was not passed into law.*

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NOT PASSED: New Waiver Employment Services

This bill would have established three new employment services proposed by the DHS in discussions over this past summer. The three new services include: Employment Exploration Services which are aimed at introducing a person to competitive employment opportunities in their community; Employment Development Services which are aimed at actively supporting a person to achieve paid employment in their community; and Employment Support Services which are aimed at assisting people with maintaining competitive, integrated employment. *This bill was not passed this session* but broader stakeholder work on the development of these services will likely continue.

NOT PASSED: Audit of Refugee Resettlement Spending by the State

This bill would have required the legislative auditor to conduct or contract with vendors to conduct independent third-party financial audits of federal, state, local, and nonprofit spending related to refugee resettlement costs and other services provided to refugees in Minnesota. *This bill was not passed into law.*

NOT PASSED: Pilot Program to Address PCA Workforce Shortage

This bill would have required the Commissioner to develop and administer a pilot program involving payment of a higher MA payment rate for PCA services provided to someone with six or more dependencies in activities of daily living (ADLs). *This bill was not passed into law.*

NOT PASSED: Minnesota Long Term Care Utilization and Costs Predictive Model

This bill would have appropriated \$200K to the Commissioner of Human Services to develop a long-term care microsimulation model. The purpose of the model was to predict the future utilization and costs of long-term care in Minnesota, including the costs to the state, out-of-pocket expenditures, Medicare, and other insurance and financing products. The Commissioner would have been required to report on the development of the model to the members of the legislative committees with jurisdiction over human services and policy and finance by January 15, 2018. *This bill was not passed into law.*

NOT PASSED: 2.72% Increase for Specific Providers Related to Federal Home Care Worker Final Rule

The Governor's proposal targeted a 2.72% rate increase for the Personal Care Assistance, Consumer Support Grants and CDCS programs to help comply with the US Department of Labor's Home Care Worker Final Rule. *This bill was not passed into law.*

NOT PASSED: Provider Data Submission Requirement

A proposal was moving forward this session that would have required providers to annually submit the following data on workers: benefits paid; staff retention rates; amount of overtime paid; amount of travel time paid; vacancy rates; and other data elements determined by the Commissioner. The Commissioner would have been required to analyze the data annually for workforce assessments and its impact on service access. *This bill was not passed into law.*

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NOT PASSED: Proposed New Changes to 245D Fees (Current Law Already Contains Changes set to go into Effect in January 2017)

There were multiple proposals brought forward this session containing changes to the 245D fee structure for HCBS providers, some of which would have resulted in significant increased fees for providers. Ultimately no changes to the current 245D fee law were made. As a reminder, the current law in place around 245D fees was enacted in 2013 and contains a new fee schedule that will go into effect on January 1, 2017.

NOT PASSED: Long Term Care Funding Stream Created

This bill would have proposed a constitutional amendment creating a dedicated funding stream for long-term care services through collecting a tax on income that is not subject to Social Security tax. *This bill was not passed into law.*

NOT PASSED: Disability Waiver Rate System (DWRS) Changes with Costs

There was legislation brought forward this session aimed at reforming various pieces of the DWRS formula, including potential Budget Neutrality Factor adjustments, Regional Variance Factor adjustments, and exploring a long term Banding floor. These various proposals produced high fiscal notes. *This bill was not passed into law.*

NOT PASSED: 5% Primary Care and Outpatient Mental Health Rate Increase

This legislation would have provided a 5% rate increase for primary care and outpatient mental health services. While the Senate advanced this language and funding, the House did not. *This bill was not passed into law.*

NOT PASSED: Increase to MFIP grant. A proposal to increase the MFIP grant by \$100 per family was included in the Governor's supplemental budget proposal. The MFIP cash grant rests at \$532/month and has not been increased since 1986. *This bill was not passed into law.*

NOT PASSED: A child care rate increase to the Basic Sliding Fee would have expanded child care options to 7,300 families on the waiting list. *This bill was not passed into law.*

NOT PASSED: Statewide Family and Medical Leave Benefit Insurance Program

Legislation was introduced and travelled through the Senate committee process this session (it was not ultimately passed onto law) requiring employers to provide their employees with a 12 week unpaid leave of absence for new parents to recover from a pregnancy, to care for a family member with a serious medical condition, or to bond with a new child. The bill also created a family and medical benefit insurance program. This insurance benefit program was funded through the collection of a tax similar to the state's unemployment insurance program. These provisions would have applied to employers with 21 or more employees. *This bill was not passed into law.*

****Tax Bill – Pocket veto by Governor Dayton – likely to pass during a special session
Minnesota Initiative Program (Governor did not sign)**

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Creates a statewide revolving loan pool for making small business loans to minority, women, and low-income entrepreneurs. It also funds capacity building grants for nonprofits that support small business development.
\$850K in FY 2017 and \$750K per year thereafter for the revolving loan pool
\$320K in FY 2017 and \$1M per year thereafter for capacity building grants

Taxpayer Assistance Grants (*Governor did not sign*)

\$800K per year in ongoing funding. Makes an additional \$400K per year available through the new Tax Time Savings program to fund financial capability services at free tax prep sites.

Working Family Tax Credit and Child and Dependent Care Credit (*Governor did not sign*)

The provision in the tax bill will provide \$49M in tax reductions to about 386,000 Minnesota families and individuals across the state by:

- Increasing the size of the tax credit for most currently eligible families and individuals.
- Making some additional families and individuals eligible by increasing the incomes that they can earn and still qualify for the credit.
- Reaching younger workers without dependent children by lowering the age requirement to qualify for the credit from 25 to 21 years old.

Child and Dependent Care Credit (*Governor did not sign*)

The tax bill also includes \$9.8M expansion is included, which would:

- Increase the maximum amount of credit that families can receive to \$1,050 for families with one child and \$2,100 for families with two or more children.
- Increase the income that families can earn and still qualify for the credit to \$44,900 for families with one child and \$51,800 for families with two or more children.
- Additional funding for free tax preparation and related financial capability services.

Sources:

Minnesota Legislative Office of the Revisor of Statutes
Minnesota Budget Bites
Frederickson and Byron
Arc of Minnesota
NAMI MN

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