

# MICA

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## 2018 Legislative Recommendations



Benton \* Blue Earth \* Carver \* Crow Wing \* Dakota \* Olmsted \* Otter Tail

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Rice \* St. Louis \* Scott \* Sherburne \* Stearns \* Washington \* Winona

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Formed in 1966, MICA is a consortium of Minnesota's larger and growing counties working together to achieve common goals and solve common problems. MICA's member counties are: Benton, Blue Earth, Carver, Crow Wing, Dakota, Olmsted, Otter Tail, Rice, St. Louis, Scott, Sherburne, Stearns, Washington and Winona.



# MICA 2018 Legislative Recommendations

## Tax and Fiscal Policy

### Tax and Fiscal Policy Priorities

- **Maintain County Program Aid Funding**
- **Simplify the Sales Tax Exemption for Construction Materials**
- **Increase the Driver's License Agent Fee for the Additional Issuance Costs for REAL-ID-Compliant Driver's Licenses and Reimburse Deputy Registrars for the Additional Workload Shifted from the State to Them to Transfer Vehicle Titles under the New MNLARS System**

#### Maintain Funding Commitment to County Program Aid

*The MICA Board of Directors urges the 2018 Legislature to maintain its funding commitment to county program aid (CPA). That would include assuring that counties receive the full benefit of the \$25.5 million funding commitment enacted in 2017 by repealing or offsetting \$11.2 Million MNChoices Cost Shift to Counties. If it is necessary to preserve CPA funding, the Legislature should use the state's budget reserve before it makes any cuts in the program.*

The 2017 Legislature enacted a county program aid (CPA) formula change recommended by counties along with a \$25.5 million funding increase. Counties were grateful for this increase. The increase and formula change will help counties with a small portion of the costs they incur on the state's behalf, bring stability to the formula, and reduce upward pressure on county levies.

County program aid (CPA) is the county version of the cities' local government aid (LGA) program. City LGA is funded at \$5534.4 million in 2018 and thereafter while county CPA is funded at \$234.7 million for 2018 through 2024 despite counties' property tax levy being 1.4 times greater than the cities' and the county's tax frequently being the largest portion of property owners' tax bills. In addition, counties are an arm of the state required to:

- act on the state's behalf to administer health and human services programs (2015 cost of \$1.93 billion),
- provide public safety services including supervising the lion's shares of the state's felons – 9,500 are in state prisons while 116,000 are in county jails or in the community under mostly county supervision (2015 cost of \$1.11 billion),
- play a major role in solid waste management, as well as feedlot regulation in many counties
- administer the property tax system and collect property taxes on behalf of the state and all local governments.

All of these except the last one are state government functions in most other states. Thus, the counties' role in performing these functions saves the state substantial monies.

The benefit of the \$25.5 million funding increase was reduced in the last few days of the 2017 special session when ultimately \$11.2 million of the costs of the MNChoices program, a comprehensive assessment of individuals considering moving to a nursing home or already living in a nursing home to see if they can receive

less expensive services in the community and live in a less restrictive environment, was shifted to the counties. Counties are mandated to provide these services by the federal and state government. Thus, the benefit of the \$25.5 million CPA increase was nearly cut in half in the aggregate, far more for counties receiving lesser CPA increases in 2018.

It is critical that if the state suffers a revenue downturn, the Legislature use its budget reserve before imposing any cuts in CPA or other county aids.

### **Simplify the Sales Tax Exemption for Construction Materials.**

*The MICA Board of Directors urges that the sales tax exemption for construction materials be simplified.*

The sales tax exemption for construction materials purchased by contractors for county construction projects is administered in a manner that, in order to get the exemption, burdens counties with extra paperwork to execute separate contracts for the materials' purchase and their erection or installation and shifts liability for those materials from the contractor to county taxpayers. The exemption should be changed to a refund of the sales tax imposed on the initial purchase of the materials thereby relieving counties of having to execute separate contracts and keeping liability with the contractor for the materials' performance and suitability.

### **Increase the Driver's License Agent Fee for the Additional Issuance Costs for REAL-ID-Compliant Driver's Licenses and Reimburse Deputy Registrars for the Additional Workload Shifted from the State to Them to Transfer Vehicle Titles under the New MNLARS system. Do Not Bring the MNLARS Drivers License Module Online Until All the Problems with the Vehicle Titling and Registration Module Are Fixed**

*The MICA Board of Directors urges the 2018 Legislature to increase drivers' license fees so deputy registrars can recoup the additional costs involved in issuing Real ID-compliant drivers' licenses and reimburse deputy registrars for the additional workload shifted from the state to them to transfer vehicle titles under the new MNLARS system. Additionally, the MICA Board of Directors urges the Department of Public Safety and/or the 2018 Legislature to not bring the Drivers License Module of the MNLARS system online until all the problems with the Vehicle Titling and Registration Module are fixed*

The Vehicle Titling and Registration Module of the new Minnesota Licensing and Registration System (MNLARS) was brought online at the end of July. Numerous problems have plagued and continue to plague the system. Problems are particularly acute for vehicle title transfers and specialty plates with many customers waiting months for new titles and plates. Longer transaction times (if the transactions have been able to be processed at all) have resulted in long waits for customers. Additional hours have been necessary to do the back office tasks resulting in either considerable overtime for deputy registrar staff or reduced hours for the public. Preliminary demonstrations of the new Drivers License Module scheduled to come online in the spring show that the time to just process renewals of existing drivers licenses – not the REAL ID-compliant licenses discussed below – will take 20 minutes as compared to the current 5 minutes. This will compound all the above problems. Thus until all the problems with the existing Vehicle Titling and Registration Module are fixed, the Drivers License Module should not be brought online.

Minnesota must begin issuing a new type of driver's license by 2018 in order for its citizens to board domestic airline flights or visit certain federal facilities without providing a passport. This change is required by the federal REAL ID law that was enacted to prevent individuals from using false identification that may lead to acts of terrorism. In order to meet the requirements of the federal law, new protocols will have to be implemented that include new training, yearly background checks for driver's license agents and more extensive identification verification.

The later will include processing and verifying:

- identification documents including full legal name and birth date
- documentation of birth date
- documentation of legal status and Social Security number
- documentation showing name and principal residence address

Digital images of all four documents must be made and transmitted to the Department of Public Safety (DPS).

The Department of Public Safety (DPS) is anticipating increasing its staffing by 17% to meet the additional workload. Local driver's license agents, many of whom work at county service centers or county auditors offices, will also have to increase their staffing to meet the demands of processing REAL-ID-compliant driver's license applications. Many counties lose money on their driver's license services. To offset the additional costs of processing Real ID compliant drivers' licenses while maintaining convenient access for all the state's citizens, the current \$8.00 driver's license agent fee must be increased to allow these additional costs to be recouped.

The new MNLARS system intrinsically shifted the workload of entering the data necessary to transfer vehicle titles from DPS staff to the deputy registrars. This has increased the amount of time it takes to process each title transaction. Since the time and cost to process titling transactions has shifted from DPS to deputy registrars, then funding for this function should also be shifted to the registrars to compensate them for these costs. One thing that the Legislature needs to keep in mind is that all vehicle titling and in-person registration is done by deputy registrars. If funding for deputy registrar services provided on the state's behalf remains inadequate, then a number of both private and local government-operated deputy registrar offices are certain to shut down making the availability of these services even more inconvenient for the state's citizens who will have to travel even further to the remaining deputy registrar locations.

### **Oppose the Extension of Levy Limits or the Imposition of Property Tax Freezes or Reverse Referendums**

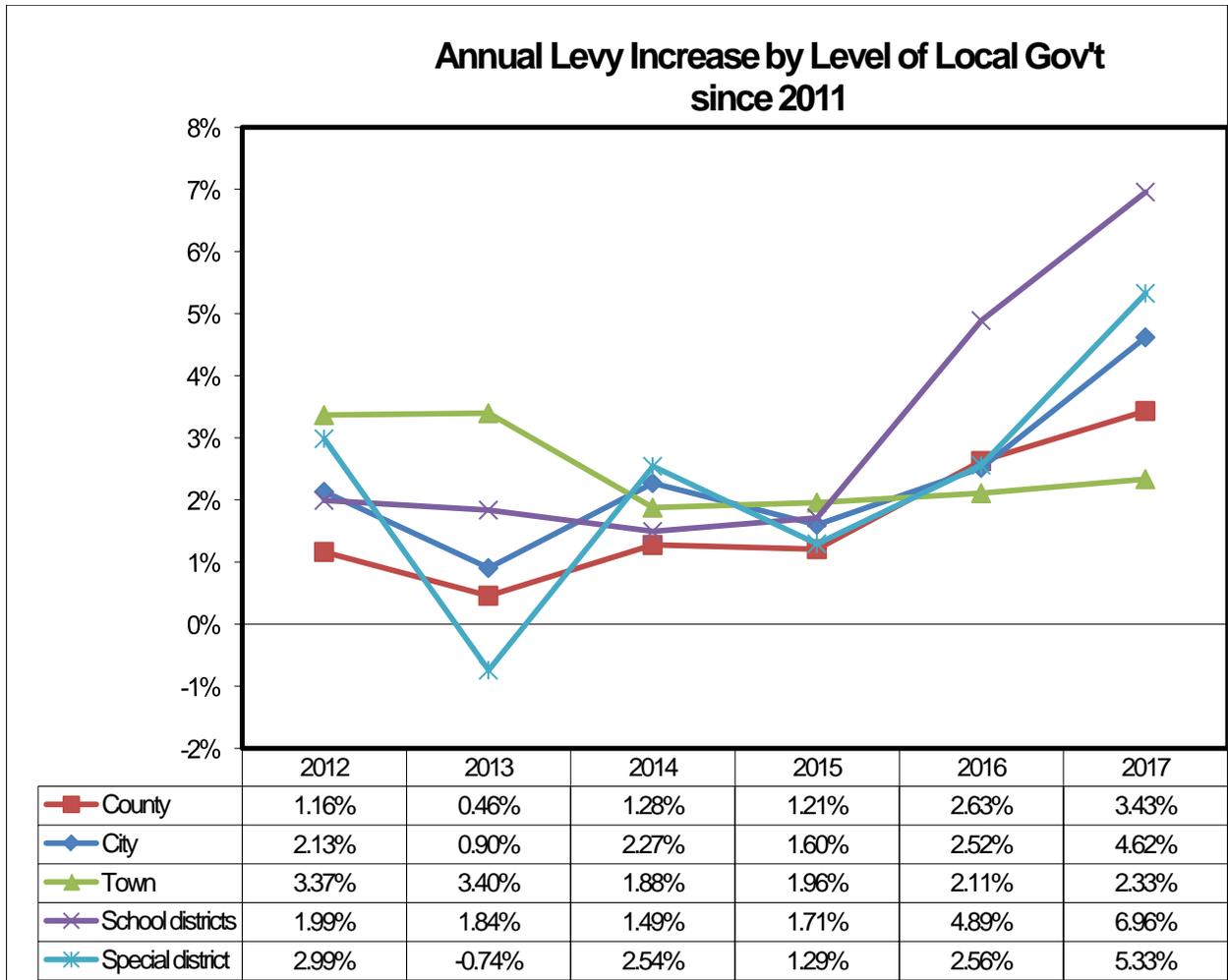
*The MICA Board of Directors urges the 2018 Legislature not to reimpose levy limits and to not enact property tax freezes or reverse referendums on proposed property tax increases.*

Levy limits are a state-imposed restraint on county taxing authority that are disrespectful of county commissioners' commitments to their constituents and taxpayers to provide needed services at the lowest costs possible. An example of this is that in the past levy limits have encouraged more expensive, debt financing of capital expenditures when pay-as-you-go may have been a better option. Levy limits frustrate county commissioners' responsibility to make budget and levy decisions that best serve the needs of their counties. Levy limits make commissioners less accountable to voters for their tax and spending decisions because levy limits provide a ready excuse for commissioners who do not support additional investments in popular programs.

Levy limits were last imposed for one year in 2014 after having been absent for two years. The 2014 levy limits were much more restrictive than past levy limits with taxing authority limited to 1) the greater of county's pay 2012 or 2013 net tax capacity levy less that for debt service, economic development abatements and natural disasters plus its program aid for that respective year increased by 3% minus its 2014 program aid or 2) the greater of the pay 2012 or 2013 net tax capacity levy, whichever is greater. While the 2014 "special levies" provided exceptions that allow increases outside the limits for debt service, economic development abatements and natural disasters, levy limits largely ignore the fact that counties are obligated under state mandates and maintenance of effort requirements to spend \$100's of millions without regard to levy limits' intended restraint on tax increases. The state cannot have it both ways – on one hand telling counties to spend money while on the other hand telling counties to reduce property taxes.

Both state and county governments have shown themselves to be responsible stewards of taxpayer dollars by reducing state and local government spending as a percent of personal income since 1996. Arguably, counties have done even better recently with a levy increase of only 10.6% from 2010 to 2016. During the same period, the state’s general fund spending increased 39.5%.

One objective of the 2001 property tax reforms was to reduce the state’s perceived role in determining local property taxes and to reinforce the fact that the property tax is a local tax for which local officials are accountable. As long as the state imposes levy limits, property tax freezes or reverse referendums, however, the property tax is neither local nor accountable.



**Require Adjacent Seasonal Recreational Residential Parcels with the Same Ownership to Be Linked for Purposes of Determining Their Net Tax Capacity**

*The MICA Board of Directors urges the 2018 Legislature to bring consistency to the determination of net tax capacity for property classes with two class rates.*

One of the challenges that assessors face in administering Minnesota’s complicated property tax system is determining net tax capacity – the value upon which the local tax rate is applied – when the class of property has two class rates (that are used to determine the property’s net tax capacity). Two seasonal recreational residential

(SRR) properties with identical market values should have identical net tax capacities but that may not be true if the property is split into two or more separate parcels even though the parcels are contiguous. Depending on the local assessor's determination, a SRR property that is split into two or more parcels may have a lower net tax capacity than another SRR property with an identical market value. This occurs when the 1% class rate that applies to the first \$500,000 of market value and the 1.25% class rate that applies to the market value in excess of \$500,000 are applied separately to the second parcel. For example, a \$750,000 SRR property would have a net tax capacity of  $\$8,125 - 1\% * \$500,000 + 1.25\% * \$250,000$  – if the property is treated as one unitary property. It would have a net tax capacity of \$7,500, 7.7% less, if it consisted of two contiguous parcels of \$375,000 each and the assessor determined the net tax capacity by applying the class rates separately to each parcel -  $\$375,000 * 1\% + \$375,000 * 1\%$ .

The property tax statutes under MS 273.13, subd. 24 specifically require the combination of contiguous parcels under the same ownership to avoid this disparity for the two-class-rate, commercial-industrial classification. The administration of the two class rates applicable to agricultural and residential homesteads under MS 273.13 and 273.124 also has the same result of preventing this disparity from occurring for homestead properties located on multiple parcels. The same, consistent practice should be applicable to SRR properties to eliminate non-uniform treatment by various assessors and to provide consistency with the other classes with two class rates.

### **Extend to Counties the Exemption from the Sales Tax on Motor Vehicles Used for Road Maintenance**

*The MICA Board of Directors urges that counties be exempted from the sales tax on motor vehicles used for road maintenance purposes similar to how townships are treated currently.*

Townships alone enjoy an exemption from the legally separate sales tax on motor vehicles that are used for road maintenance purposes. Counties should be granted the same exemption for the vehicles they use to for highway maintenance and construction. County payment of the state sales tax on motor vehicles used for road maintenance places counties in the difficult position of either reducing the amount of resources available for services such as highway maintenance and improvement or increasing the burden on county property taxpayers.

### **Allow Posting of Truth in Taxation Notices on the Web**

*The MICA Board of Directors urges the 2018 Legislature to allow counties to post the preliminary tax statements or truth in taxation notices on their Web site as long as taxpayers are given the option that they can continue to receive a mailed statement or notice if they prefer.*

Preparation and mailing of truth in taxation notices or preliminary tax statements cost local governments an estimated \$1.9 million in 2007. With postage rate increases since that time, it is estimated that cost have risen to \$2.25 million annually.

When last surveyed in 2007, over 81% of the truth in taxation hearings had turnout of 0 to 5 citizens. Since that time, if local government officials' anecdotal observations of in-person citizen participation at meetings are a gauge, participation has fallen still further. Many officials are saying that with the exploding opportunities to engage with elected and other governmental officials electronically that citizens no longer feel the need or have the motivation to attend truth in taxation meetings or other local government meetings in-person. With ready access to the information they historically could only get by in-person attendance to meetings, citizens are now demanding that the information they need be available electronically.

This rapid change in the manner of citizen engagement should be accommodated by allowing counties to move the truth in taxation notices to their websites. Parcel specific tax information is already available on many county websites along with multi-year historical data so moving notice of the dates of the truth in taxation hearings to the

county web sites would provide the information in the readily accessible means that many citizens demand and expect. For those desiring continuation of mailed truth in taxation notices, the preceding year's regular tax statement can give the taxpayers notice that he or she can elect to continue to receive a mailed truth in taxation notice if they desire that. For new owners, the first year's mailed truth in taxation notice and regular tax statement could provide similar notice that the owner can continue to be mailed the truth in taxation notice if they so elect. The savings to local governments would be welcome while taxpayer would have ready access to their truth in taxation notice on or before the current November 24 deadline for receipt of the notice. Optionally, taxpayers could request e-mail notification of when the notices are available with a link to the Web site where the notices can be found.

**Do Not Mandate Additional, Overly Prescriptive Financial or Budget Reporting Requirements without Relieving Counties of Existing, Multiple Budget and Financial Reporting and Publication Requirements**

*The MICA Board of Directors urges the 2018 Legislature to not mandate additional, overly prescriptive financial or budget reporting requirements or at least not without relieving counties of existing, multiple budget reporting requirements and/or eliminating expensive budget and financial statement publication requirements especially when web publication serves the information needs of the vast majority of the public.*

Counties already incur substantial costs for budget and financial reporting and publication. Summary budget data is reported to State Auditor each year. It is compiled & posted in a report for all counties on the Auditor's web site. Similarly, audited financial reports (actual expenditures and revenues) are also submitted to the State Auditor. It is compiled & posted in a report for all counties on the Auditor's web site as well. A per capita comparison tool by amounts & rankings is also available there. Summary county budget statements are also required to be published in the newspaper at considerable expense. In addition, audited financial statements are required to be published by all counties annually in two separate newspapers. Costs can be several thousand dollars annually. Counties must also include as part of their published meeting minutes itemized list of payments to individuals or businesses exceeding \$2,000 or \$5,000 - again at considerable expense. Required notices for truth in taxation cost in excess of \$3 million annually.

Counties work hard to provide transparency in their budget and financial reports. All Minnesota counties provide current budget and financial information via publication on their web sites or via local newspapers and to the state Auditor. Counties representing 68% of the state's population are recipients of the Government Finance Officers Association's (GFOA) Certificate of Achievement for Excellence in Financial Reporting. All counties are struggling at substantial expense to comply with new Governmental Accounting Standards Board's (GASB) requirements for financial reporting of fixed assets, employee benefits and pensions. Several are investing in detailed budget and financial reporting on their web sites via third party software like OpenGov or on publicly accessible, in-house budget and finance databases. However, these efforts come with significant costs that many counties can ill-afford.

The Legislature should not mandate additional reporting with overly prescriptive expenditure types that do not respect current charts of accounts. Just adding more requirements to the long list of county budget and financial reports will do little to enhance taxpayer knowledge and access to this information. Less than 13% of Americans buy or subscribe to a daily newspaper. The alternative of encouraging the voluntary migration of budget and financial reporting to county web sites, while relieving counties of the largely useless newspaper publication of the same, is a preferable choice to mandating just another new budget report from counties without relieving them of any of the expense of the reports already required to be published.

### Repeal and Fund Maintenance of Effort (MOE) Requirements and Cost Shares

*The MICA Board of Directors urges the 2018 Legislature to repeal cost shares and maintenance of effort requirements. The Legislature should fund the financial obligations that have been placed on the counties and their taxpayers by past legislatures.*

Relief from unfunded mandates, particularly cost shares and maintenance of effort requirements, has been a recurring desire of counties. Maintenance of effort (MOE) requirements, where the state literally tells counties how much they must spend for certain programs and sanctions them if they do not, cost counties and their taxpayers over \$387 million in 2017. Cost shares where the Legislature has shifted some of the costs for state and federal programs to counties have added \$10's of million more to the costs borne by counties and their taxpayers.

Maintenance of effort requirements were created to fund state objectives or initiatives determined by past legislatures. They are fundamentally wrong in that they:

- punish the good actors – counties that responded to the issues meant to be addressed by the MOE's before the MOE's were in place were frozen at their prior, often times higher spending levels ,
- result in misallocation of limited resources and provide no flexibility to respond to local issues or priorities, and
- focus on dollars spent rather than actual results or performance in serving the needs of the targeted clients and do not incent better or more cost-effective ways to serve those clients.

The Legislature has enacted numerous cost shares that have shifted part of the costs of state and federal programs to counties over recent decades: Examples of cost shifts in just human services programs alone include –

- for Medical Assistance costs for stays in excess of 90 days in the following situations:
  - 10% for individuals placed in Intermediate Care Facilities for the Developmentally Disabled (ICF/DD) of seven beds or more;
  - 20% for individuals placements in nursing facilities qualifying as an Institution of Mental Diseases and
  - 20% for disabled individuals under age 65 placed in nursing homes
- for individuals admitted to State Operated Services (SOS) facilities:
  - 100% of the cost for days not meeting hospitalization criteria for individuals at the Anoka Metropolitan Regional Treatment Center (AMRTC) and Community Behavioral Health Hospitals (CBHHs),
  - for individuals in the residential competency restoration program
    - (i) 20 percent for each day, or portion thereof, while the client is in need of restoration services;
    - (ii) 50 percent for each day, or portion thereof, once the examiner determines that the client no longer needs restoration services; and
    - (iii) 100 percent for each day, or portion thereof, once charges against a client have been resolved or dropped, and
  - 25% of the cost for individuals committed to SOS facilities for sex offender treatment [Minnesota Sex Offender Program (MSOP)]
- 22.95% of the cost of treatment for clients served by the Consolidated Chemical Dependency Treatment Fund, and
- 18.1% of the cost of MNChoices assessments by July 1, 2019.

If the state is truly committed to spending at the levels currently mandated of the counties by the MOE's and cost shares then the state should harmonize where the spending is decided – the Legislature – with whose resources are

actually used to support that spending. If the Legislature believes that it is critical to spend at the current levels dictated by the MOE's and cost shares then they should provide the resources from the state treasury, not continue to shift the financial burden to counties and their property taxpayers. Alternately, the Legislature can dictate certain performance standards that the counties have to meet in serving the targeted clients (as is already being done for selected client groups through DHS's Human Services Performance Management System) and free them to serve them better or in the most cost effective manners.

### **Prohibit Data Practices Requests by Other Than the Owner for Unclaimed Property Held Less Than Three Years**

*The MICA Board of Directors urges the 2018 Legislature to prohibit time-wasting data practices requests from out of state "Finders" firms to counties and other local governments for lists of uncashed checks and their recipients before those checks are turned over to the state.*

Counties and other local governments are frequent recipients of data practices requests from out of state "finders" firms, which claim to find "lost" money and other assets for individuals for a fee. Usually, the lost property is uncashed checks, which the local government is required to turn over to the Department of Commerce along with any other unclaimed personal property after remaining unclaimed for three years. The department allows any individual to search on a website for any unclaimed property turned over to it by simply entering their name and to recover that property **for free**. These frequent requests from the out of state "finder" firms needlessly waste staff time when adequate mechanism already exist under state law to reunite the "lost" money and other personal property with their owners at no cost to the owner. By classifying the name and address of the owner of unclaimed personal property as "private data" until the property is turned over to the Department of Commerce after the property remains unclaimed for three years, these time-wasting requests would be eliminated while at the same time preventing the owners for needlessly paying the out-of-state finders firms for recovering their property. The right of any individual or business to inquire at any time if they have an uncashed check or other personal property with the county or other local government would remain unchanged.



## MICA 2018 Legislative Recommendations Transportation

Building and maintaining a safe, efficient and effective transportation system is one of the most basic and vital services provided by all levels of government. Counties are a critical element of the state's transportation system. Over 45,000 miles of Minnesota's 143,000 miles of roads and highways are under county jurisdiction. Counties and other local units of government oversee 14,700 bridges - 75% of all bridges in the state. The 2017 Legislature passed a transportation funding bill which prioritized trunk highway bonds (\$940 million over 4 years with \$330 million dedicated to the corridors of commerce) but fell short on its funding for county roads and bridges. The publically stated goal of \$600 million per year in permanent new money was not met. The new policy of shifting general funds from the sales tax on auto parts was not fully implemented (\$31 million of a possible \$307 million). Therefore, considering the critical need for investments in the state's transportation infrastructure, MICA will be pursuing the following transportation policy priorities for the 2018 legislative session.

### Transportation Priorities

- **Fund the Local Bridge Repair and Replacement Program**
- **Fund the Local Road Improvement Program and Grants**
- **Immediately Fully Fund the Local Road Wetland Replacement Program**
- **Support Constitutionally Dedicated Revenue for Future Funding Needs for Transportation**
- **Support the Full Transfer of Funds from the Sales Tax on Auto Parts to Transportation (full implementation would provide \$307 million annually versus the current \$31.5 million)**
- **Enact a Comprehensive Transportation Funding Bill with the Equivalent of At Least \$600 Million per Year of Permanent New Money Including at Least \$180 Million for Counties**

#### Fund Local Bridge Repair and Replacement Program

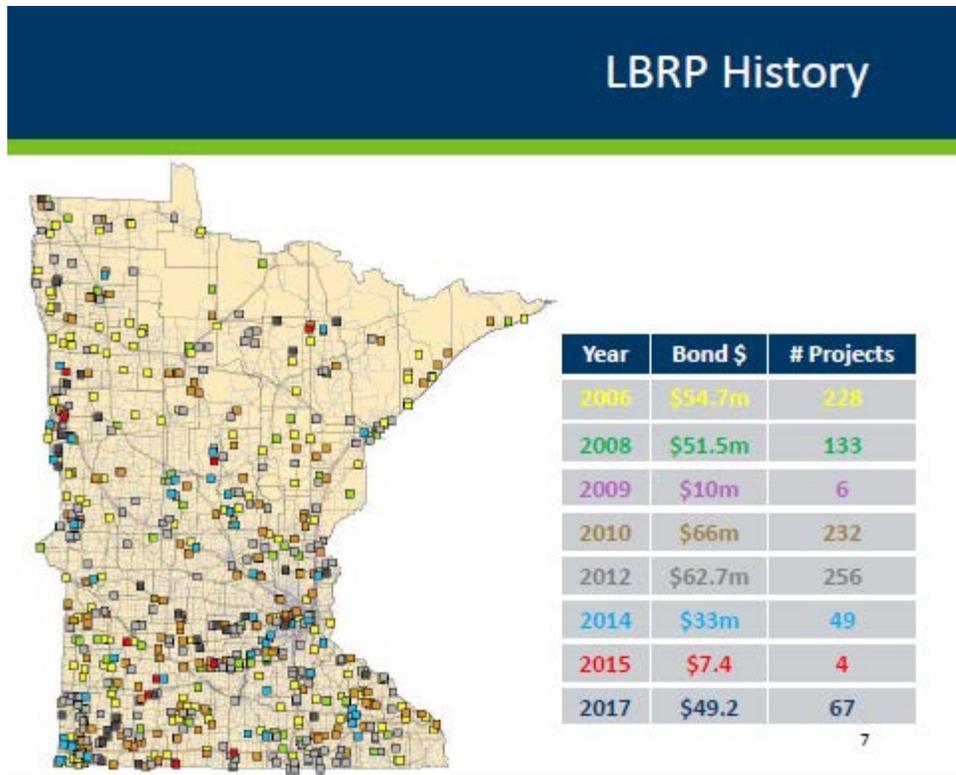
*The MICA Board of Directors recommends that the Legislature fund the state bridge bonding program at a minimum level of \$100 million, a level sufficient to construct, replace, rehabilitate, or renovate a significant portion of the backlog of deficient bridges awaiting funding.*

The state bridge bonding program (LBRP) is a necessary component of funding for local bridges. Counties and other local units of government oversee 14,700 bridges – 75% of all bridges in the state. Of these, 1,021 have been identified as structurally deficient.

The state has long provided special funding for local bridges. However, recent bonding bills have not kept pace with the needs. Thus, there is a considerable backlog of deficient bridges needing rehabilitation or replacement

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that are awaiting funding. A bonus from funding the LBRP is that the broad geographic distribution of bridges within the state guarantees that monies spent for the bridges' rehabilitation or replacements benefits local construction firms and local economies throughout the state.



Also needing to be addressed are counties that have experienced significant population growth have bridges that may be structurally sound but that are no longer capable of handling the increased traffic volume. These operationally deficient bridges should be eligible for funding under the state bridge bonding program, as should bridges on new alignments.

## Local Bridges – Priority / Waiting List

- Master Local Bridge Priority List (5 year priority: 2017-2021)
  - Bridges identified by local agencies as priority for replacement within their 5-year capital improvement program
  - 923 bridges requesting \$245 million in bond funds

**Fund the Local Road Improvement Program and Grants**

*The MICA Board of Directors recommends that the Legislature should provide MNDOT-recommended \$100 million of funding for the local road improvement program.*

The transportation funding bill that passed the 2008 Legislature provided for trunk highway bonding only for state highway projects. Past administrations acknowledged that there are increased costs to local governments, such as interchanges, that are needed to complete these projects. For example, the county interchanges improvements on the Highway 52 and 63 reconstruction projects cost Olmsted County \$17 million.

Many counties face the same funding needs for capacity expansion, congestion reduction, inter-changes, planned growth, hazard elimination, and to match federally funded projects that the state does. The Local Road Improvement Program should specifically allow for funding of these projects.

Counties are struggling to maintain mobility on key regional corridors. County highways that serve as farm-to-market corridors, connections between regional centers, and support state investments in the trunk highway system have a significant impact on the state economy and warrant state support.

MICA supports the MNDOT LRIP competitive grant process. The following outline provided by MNDOT makes the case for additional funding.

### LRIP Competitive Solicitation

- Available funding - \$25,366,000
- Counties and state aid cities – applications due Nov 3 (\$1M max)
- Small cities and townships – applications due Dec 1 (\$750K max)
- Funding splits:
  - County – 30%
  - SA City – 30%
  - Small City – 30%
  - Township – 10%

Agency	# Projects Submitted	Bond \$ Requested	Total Project Cost Est.
County	85	\$66,800,000	\$296,000,000
State Aid City	44	\$38,900,000	\$178,000,000
Total	129	\$105,700,000	\$474,000,000

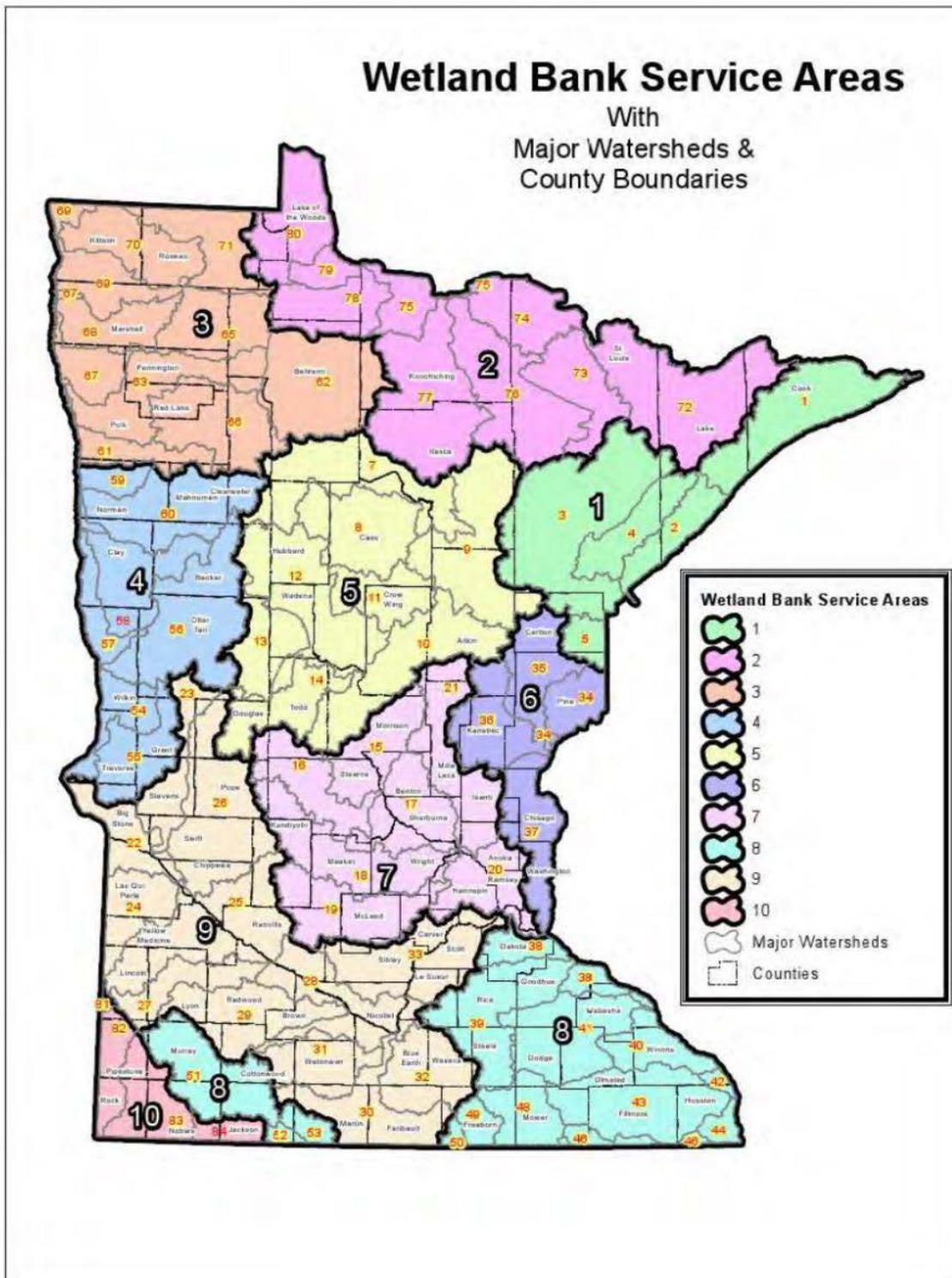
**Immediately Fully Fund the Local Road Wetland Replacement Program**

*The MICA Board of Directors recommends the Legislature immediately fund the Board of Water and Soil Resources’ (BWSR) \$16.3 million request for the Local Road Wetland Replacement Program that provides wetland mitigation for county, city and township road projects.*

In 1996, the Legislature enacted the Local Road Wetland Replacement Program. Under this program, local road authorities are required to report wetlands lost due to *rehabilitation or reconstruction* of existing local roads to meet state or federal safety or design standards after taking steps to minimize the wetland impacts. (Mitigation of the wetland impacts of new local roads is not covered by the program and has to be funded locally.) The state through BWSR is required to mitigate the loss or replace the affected wetlands. In lieu of project by project wetland mitigation done by individual local governments or their contractors with limited expertise in wetland restoration, the Local Road Wetland Replacement Program (LRWRP) has efficiently and effectively met the regulatory requirements for scores of local road projects over the past 20 years.

The Local Road Wetland Replacement program has historically been funded via the bonding bill. Unfortunately, the Legislature has not been meeting its obligation to fund this program in recent years as the below table shows.

<u>Year</u>	<u>Agency Capital Budget Request</u>	<u>Appropriation</u>
2008	\$8,500,000	\$3,480,000
2010	\$8,420,000	\$2,500,000
2012	\$13,100,000	\$6,000,000
2014	\$5,400,000	\$2,000,000
2016	\$10,330,000	\$0
2017	\$10,330,000	\$5,000,000
2018	\$16,380,000	



Without ongoing state funding, affected local governments face the possibility of having to abandon affected projects, coming up with heretofore unbudgeted funds that will stop the construction of other road projects or increasing local property taxes. *(It is too late to raise property taxes for 2018 to offset state funding shortfalls.)* Failure to adequately fund the LRWRP will also negate an agreement with the U.S. Army Corps of Engineers that allows this program to meet federal regulatory requirements; and will result in one more unfunded state mandate.

**Support the full statutory transfer of general funds to transportation from the sales tax on auto parts**

*The MICA Board of Directors urges the 2018 Legislature to fully transfer the proceeds from the sales tax on Auto parts to transportation.*

The 2017 Legislature instituted a new policy of transferring general funds to transportation. The revenue comes from the proceeds from the sales tax on auto parts. However, only \$31 million was transferred instead of a possible \$307M. We urge the transfer to be fully implemented.

**Strengthen the State’s Financial Commitment to Maintain and Improve Its Transportation Infrastructure by Increasing Funding by at least \$600 Million per Year**

*The MICA Board of Directors urges that the 2018 Legislature give priority to addressing deficiencies in the state’s transportation infrastructure. The MICA Board of Directors supports the enactment of a comprehensive and sustainable transportation funding bill that provides a minimum of a \$600 million per year of permanent new money, including at least \$180 million for counties.*

The 2008 Legislature enacted a comprehensive transportation funding bill that provided dedicated revenues for bridges, roads and transit – at both the state and local levels of government. However, as MnDOT’s 20-Year Statewide Transportation Policy Plan makes clear, projected revenues will fall far short of transportation investments needs. Per MnDOT’s plan with a total estimated investment need of \$39 billion during the next 20 years, and projected revenues of \$21 billion, there is \$18 billion in unmet needs. Most of the existing funding in the foreseeable future will be used for state bridges and highway preservation and maintenance. That means new transportation projects in both the Twin City metropolitan area and Greater Minnesota will continue to be delayed. This will be exacerbated by declining gas tax collections as fleet gas mileage increases with the implementation of the new CAFÉ standards.

Minnesota’s transportation system is a critical element of the state’s economic vitality. Businesses and industries need a transportation system that will move products to market and workers to their jobs in a safe and efficient manner. Minnesota’s ability to attract and retain businesses is directly impacted by the condition of our transportation system. Unfortunately, much of the state’s transportation infrastructure is not up to the task.

It is critical that transportation funding needs get addressed on a sustainable basis by passage of a funding package that adds at least \$600 million in permanent money per year in 2018. Traditional or non-traditional transportation-related revenue sources could be used to meet these needs. Options include an increase in the gas tax, constitutional dedication of the sales tax on auto parts, or a full transfer by statute of the sales tax on auto parts, increasing motor vehicle registration fees, dedication of 50% of the sales tax on leased motor vehicles now going into the general fund and/or increasing the 6.5% sales tax on purchased motor vehicles to equalize it with the 6.875% sales tax on leased motor vehicles. Increases in either motor vehicle registration fees or the sales tax on electric and plug-in hybrids that pay little or no gas taxes, deserve consideration as well.

**Change the Composition and Role of the Metropolitan Council’s Transportation Advisory Board (TAB) to Meet the Requirements of Federal Law. Require the Council’s Transportation Policy Plan and Transportation Improvement Program to Be Approved by the TAB**

*The MICA Board of Directors urges the 2018 Legislature to change the composition and role of the Metropolitan Council’s Transportation Advisory Board (TAB) to meet federal requirements. The MICA Board of Directors urges that the TAB be designated the Metropolitan Planning Organization (MPO) under federal law for the Twin Cities metropolitan area, be allowed to elect its own chair, be provided sufficient*

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***funding by the Metropolitan Council to employ its own staff and carry out its duties to approve the Transportation Policy Plan (TPP) and the Transportation Improvement Program (TIP) that the council is currently required to adopt under state and federal law.***

The Metropolitan Council as the currently designated Metropolitan Planning Organization (MPO) is required to adopt a Transportation Policy Plan (TPP) that guides the development of transportation infrastructure and services and their provision within the seven-county metropolitan area. The non-transit element of the plan is required to be developed in consultation with the 1) Transportation Advisory Board (TAB), 2) the Metropolitan Airports Commission and 3) cities having an airport located within or adjacent to its corporate boundaries. The council distributes federal funds under its ***Transportation Improvement Program (TIP)*** for locally-initiated highway, road, transit and other transportation improvements. The award of funds under the TIP is supposed to be consistent with the priorities identified in the TPP. MNDOT also looks to the TPP to guide the state's transportation investments or projects within the Twin City metropolitan area.

Given the preeminent role the TPP and TIP play in governing the distribution of federal transportation funds and the state's transportation investments within the metropolitan area, it is critical that the concerns and interests of all localities as represented by their elected representatives be taken into account. The current composition of the TAB does not do that nor does its composition meet the requirements of federal law.

A composition that meets this objective would be:

- (1) the commissioner of transportation or the commissioner's designee;
- (2) the commissioner of the Pollution Control Agency or the commissioner's designee;
- (3) the chair of the Metropolitan Airports Commission;
- (4) the chair of the Metropolitan Council;
- (5) nine elected officials of cities within the metropolitan area, including one representative from each first-class city, and one representative from each of the seven counties in the metropolitan area appointed by the Association of Metropolitan Municipalities; and
- (6) two members of the county board of each county in the seven-county metropolitan area, appointed by the respective county boards.

The TAB should elect a chair from among its members.

Once the TAB is reconstituted to meet the requirements of federal law, it - not the unelected Metropolitan Council - should approve the TPP and the TIP, both that would be prepared by the Metropolitan Council. The council shall amend the TPP and TIP as required by the TAB. To facilitate this revised process, the Metropolitan Council shall provide the TAB with sufficient funding to employ its own staff.

### **Improve the Eminent Domain Appraisal Process for Property Owners**

***The MICA Board of Directors urges the Legislature to revise Chapter 117, the Eminent Domain Law, to mitigate the unintended consequences of the statute which provides procedures, definitions, remedies and limitations on condemning authorities when exercising the power of eminent domain for public use or public purpose.***

MICA recommends changing the deadline for an owner to provide their appraisal from 5 to 45 days before the Commissioners Hearing. The Condemning Authority shall then have 30 days from the receipt of the Owner's appraisal to provide the Owner a revised last written offer. The MICA Board of Directors also recommends revising Section 117.195 to determine the annual interest on award based on the secondary market yield of one year United States Treasury bills rounded to the nearest one percent.

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The 2006 revisions to the eminent domain law has resulted in a significant cost increase to taxpayers related to attorney fees and interest payments incurred by agencies implementing public transportation improvements which has put an unreasonable and unintended burden on transportation funding. It has also prevented public authorities from responding with a new, higher offer to legitimate issues raised by the owners' appraisal in a timely manner that avoids the owner incurring unnecessary or additional litigation costs. Wholesale rewrites or challenges will likely be unsuccessful given the political sensitivity with the law. However, discussion and controversy remains in several areas including: attorney's fees, owner appraisals, land commissioner qualifications, response to offers, and timing and schedules. The modest changes proposed above would give condemning authorities a chance to respond to new information that may come to light in the owner's appraisal, possibly totally avoiding the need to acquire the property through the exercise of eminent domain authority.

### **Provide Transit Funding**

*The MICA Board of Directors recommends that the Legislature provide sufficient funding to maintain existing transit systems and provide a funding source for expanded transit options including capital and operation costs that does not have a negative impact on highway funding. The law prohibiting further studies along the Dan Patch corridor should be repealed.*

Traffic congestion in Minnesota's metropolitan areas is increasing, and it will be difficult to build enough highways to provide 100% of future transportation needs. It is estimated that it will take an investment of \$150 million in new revenues annually for 15 years to meet transit capital and operating needs in the metro area. MVST revenue is volatile and not adequate to fund known transit needs. Another revenue source for operation of the envisioned transit-way system will be needed.

Furthermore, in Greater Minnesota, many citizens increasingly rely on transit services for their mobility needs. Minnesota counties are working together to develop a comprehensive transit system, which will include light rail, commuter rail, and busways. Property taxes should not be the primary funding source for these expanded transit options. General operating costs for transit in the metropolitan region should continue to be paid for by fares and the state's general fund.

### **Provide State Bonding Authorization for Funding of Turnback Roads**

*The MICA Board of Directors recommends the 2018 Legislature authorize issuing general obligation bonds to fund the cost of bringing highways that MNDOT has turned back to counties up to current standards. The MICA Board of Directors also recommends the 2018 Legislature authorize using trunk highway bonds or funds to pay the costs of bringing trunk highways that MNDOT plans to turn back to counties up to current standards.*

MNDOT is required to fund the cost of trunk highways it either has or proposes to turnback to counties to contemporary design and safety standards. There is currently a backlog of "turnback" roads awaiting required improvements due to inadequate funding available from the flexible highway account within the Highway User Tax Distribution Fund. That backlog is certain to get worse once MNDOT completes its jurisdictional study. The trunk highways designated for turnback are major thoroughfares within the affected communities and need to be brought up to reasonable standards to safely facilitate current traffic demands.

### **Assure the Integrity of the Highway User Tax Distribution Fund and Oppose Efforts to Divert Revenues Dedicated to Transportation.**

*The MICA Board of Directors opposes the use of Highway User Tax Distribution Funds for any non-highway purposes. Programs and services that are not directly related to paying for the cost of the state's road and highway systems should be funded from the State General Fund. The MICA Board of Directors further opposes any efforts to divert state revenues currently dedicated to transportation to other purposes.*

The Highway User Tax Distribution Fund is a constitutionally dedicated source of stable and dependable funding for state and local highways. Current funding levels are barely adequate to meet maintenance demands, let alone the need for new or substantially improved highways in growing areas of the state. The state Trunk Highway Fund presently funds non-transportation programs and services provided by several different state departments and agencies, including Natural Resources, Public Safety and Revenue. Trunk highway dollars should be spent only for constructing, repairing, maintaining and administering the trunk highway system.

Also, currently the sales tax on leased motor vehicles is only partially statutorily dedicated for transportation purposes. \$32 million of its proceeds is being used for other purposes, such as the Angel Investment Tax Credit. Legislative leaders had to make significant compromises (reductions in revenues) in order to get the 2008 funding bill passed. Any proposals to further reduce transportation funding should be rejected.

#### **Require State Water and Wetland-Permitting Agencies to Implement Recommendations to Streamline the Water and Wetland Permitting Process**

*The MICA Board of Directors recommends the 2018 Legislature assure that the state wetland and water permitting agencies continue to implement recommendations to streamline the wetland and water permitting process for transportation projects.*

The state water and wetland-permitting agencies were required to report findings and recommend streamlining initiatives back to the Legislature in 2013. The MICA Board of Directors believes continued implementation of the recommendations of the agencies' Water Permit Streamlining for Transportation Projects Committee will enhance process efficiency without sacrificing the necessary oversight that all stakeholders agree protects Minnesota's natural resources. The recommendations were not meant to change "what" the state evaluates when issuing a permit but "how" potential projects get evaluated. Counties believe that improving the "how" can go a long way toward making the process more efficient for all agencies involved without sacrificing the oversight that all agree is important.

The MICA Board of Directors is also pleased that the 2017 Legislature mandated a continuing study of the state takeover of the federal section 404 wetland permitting program currently administered by the Corp of Engineers. The study will hopefully provide a path forward to better coordinate the state and federal wetland permitting programs. The Corp's recent issuance of a general permit for projects impacting 3 acres or less of wetlands was a helpful development that will speed up the construction of transportation projects.

#### **Make Unprotected Railroad Crossings Safer**

*The MICA Board of Directors supports bonding authorization to provide appropriate safety infrastructure on paved county highway/main line railroad crossings that currently lack safety mechanisms. The MICA Board of Directors support MNDOT's agency capital budget request for this purpose.*

Improvements to railroad crossings should be eligible for funding under the Local Road Improvement Program. There are currently 167 paved county highway/main line railroad crossings that lack crossing lights and gates in Minnesota. These unprotected crossing constitute a major safety hazard for Minnesota motorists. Funding for railroad crossing improvements should supplement, not offset, state and federal funding for the local road and local bridge improvement programs.

#### **No Additional Increase in Truck Weights in 2018**

*The MICA Board of Directors recommends no changes in truck weight limits pending any federal changes pursuant to the MAP 21/USDOT comprehensive truck size and weight limit study and enactment of a comprehensive transportation funding bill.*

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The nation's infrastructure is crumbling. Heavier trucks, such as heavily-laden semis with the standard 18-wheel configuration, accelerate the deterioration of our roads and bridges. The current fees and taxes levied on such trucks do not offset the resulting costs to maintain our infrastructure. However, heavier trucks increase transportation efficiency. There is a possibility that different configurations (additional axles and wheels) can minimize additional road damage but even trucks with those different configurations still pose significant safety and structural issues for bridges.

Another truck-weight concern that ultimately needs to be addressed is the effects of the current, lower-than-state weight limits on the interstate system. The various exceptions to general weight limits in state statute in combination with the interstate's lower weight limits have the effect of routing heavier trucks onto county roads to bypass the interstate's restrictions and cause further damage on county roads as a result.

The United States House Transportation and Infrastructure Committee directed the US Department of Transportation under MAP-21 to conduct a study evaluating the effects of bigger trucks on safety, infrastructure and taxpayers. While the study is complete, no specific recommendations are scheduled for implementation at this time. Once that occurs and a comprehensive transportation funding package is enacted that addresses deficiencies in the existing transportation infrastructure, the Legislature will have a better basis on which to base any changes in weight limits in the future.

#### **Keep Local Decision Making Authority on Seasonal Road Restrictions**

*The MICA Board of Directors supports keeping the ability to make decisions regarding seasonal road restrictions with individual road authorities.*

There have been repeated attempts to expand the number of exemptions to seasonal load restrictions in recent legislative sessions. There appears to be an incomplete understanding about the need for seasonal load restrictions by some affected haulers.

Springtime is a critical period for Minnesota's roads because roadbeds are in a weakened state during and after the thawing process. Springtime road restrictions are used in order to preserve the investment made in the road infrastructure. Current load restriction posting are based on long-term experience and the latest technology. With the current level of funding, road authorities cannot increase the load-carrying capacity to meet the needs of haulers; thus, seasonal road restrictions are necessary. Individual road authorities responsible for maintaining those roads can best make decisions determining if and when restrictions should be imposed.

#### **Share Fines for Overweight Vehicles**

*The MICA Board of Directors recommends that the Legislature amend current law to allow counties to share in the revenue from fines from county enforcement of size and weight restrictions on commercial motor vehicles.*

Prior to state takeover of the majority of court costs, counties received a portion of fines from county enforcement of size and weight restrictions on commercial motor vehicles. Overweight vehicles cause damage to county roads. In addition, the costs of enforcing the law are borne by county property taxpayers. Sharing fine revenues could be used to partially offset the damage to county roads and the cost of enforcement.

#### **Maintain Local Decision Making Authority on Road Right-of-Way Matters**

*The MICA Board of Directors supports local autonomy and decision making through locally elected authorities as it relates to management of public land and right-of-ways under county jurisdiction.*

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There have been repeated attempts by state agencies and special interest groups to control and/or direct decision making as it relates to management of highway right of way. MICA believes that decisions on how to manage and maintain land and rights of way under county jurisdiction are best determined by locally elected county boards in consultation with their professional staff.

### **Authorize Plat Approval for Counties**

*The MICA Board of Directors recommends that all County Boards be given the authority to approve plats that are adjacent to county road right-of-way.*

Under current law, counties may only comment on plats abutting county roads. Cities and townships are free to disregard concerns and recommendations offered by the county. This can lead to restrictions in future design and construction options impacting the function of the highway and can create traffic safety issues.

During the 2004 session, city and county representatives compromised on a plat review process allowing county engineers to conduct a review of ingress and egress, drainage, safety, rights-of-way, integrations, and impact on the county-wide system prior to the city's statutory plat review process. This compromise alleviates problems caused by incomplete or late submittals.

Effective right-of-way management at the county level is essential in order to provide for future roadway needs and address safety, congestion and environmental concerns.

### **Rail-line Abandonment**

*The MICA Board of Directors recommends that proposed rail-line abandonments be reviewed to determine their local economic impact. Counties and regional rail authorities should be given the right of first refusal to purchase rail-line right-of-way being abandoned.*

The loss of rail service can have significant adverse economic consequences for some communities. Review of abandonment proposals can identify where adverse economic impact will occur and what the impact will be if the rail-line is abandoned.

Abandoned rail-line right-of-way can often be utilized to accomplish a public interest. Giving counties the right of first refusal safeguards that public interest.



## MICA 2018 Legislative Recommendations Health & Human Services

### Increase Mental Health Funding and Infrastructure to Serve the Mentally Ill

*The MICA Board of Directors urges the Legislature to provide funding to address infrastructure needs for community mental health services. Greater transparency and an appeals process must be established to enable a county's ability to determine a client's readiness "to be returned to the community." For planning purposes, counties should be given at least 45 days' notice of a decision leading to a client's release from hospitalization.*

The funding and infrastructure to serve Minnesota's mentally ill is sadly lacking and getting worse. The absence of adequate resources is particularly acute for those suffering a mental health crisis. Community recovery supports are inadequate, including employment, housing, community living, and peer supports. There are a number of home- and community-based options for treatment and support (assertive community treatment or ACT, crisis stabilization, day treatment, peer recovery support, supported employment, adult rehabilitative mental health services or AMHRS, etc.), but capacity in these programs is limited and, for the most part, the rate structure does not support growth and sustainability. In addition, we have to ensure that the community-based capacity we are developing is flexible, open and culturally responsive. There is a need to reform rate structures so that programs can expand and survive, ensure parity in payment for mental health services between private and public payers, (e.g. private payers often will not cover ACT, ARMHS, intensive residential treatment services (IRTS), peer supports, case management or other community-based or intensive level services), and invest in a public service infrastructure that recognizes that not all services are able to be provided on a fee for service basis (e.g. crisis response teams – both by phone and in-person).

The Legislature's response to the absence of adequate resources at the state level has been to shift the costs of mental health residential services to counties. Compounding the cost shift, the Department of Human Services increased the rate for community behavioral health hospitals (CBHHs) at the same time to \$1,866 per day, **a 54% increase**. As noted above, counties have no viable alternatives for the placement of the affected individuals, and the only options are taking up psychiatric beds in local hospitals long after the patient has been stabilized or, worse, the patient languishes in county jails. The state must financially incent the creation of additional beds in community-based facilities operated by the for-profit or non-profit sectors. To minimize the utilization of expensive inpatient treatment, additional resources must be provided for community services for the mentally ill. Furthermore, counties have no ability to influence referrals to or speed of transfer from one state operated facility to another (e.g. Anoka Metro Regional Treatment Center (AMRTC) to Community Competency Restoration Program (CRP)). In these situations, counties should not be held financially liable for any costs of care when transfer and admission timelines are completely within the control of state personnel and policies.

With regard to the AMRTC and CBHHs, counties struggle with the lack of transparency regarding decisions applying hospitalization criteria that result in the client's release to alternative placement. Because there is no appeals process, individuals are often released, only to be returned soon thereafter, when it is determined that a less-restrictive community option is not an appropriate placement. Allowing counties a second opinion by a qualified professional would help to alleviate that situation. In addition, counties do not receive adequate notice of the decision to change a client's hospitalization status. There have been many instances where counties do not receive information until days, or even weeks, after an alternative community placement determination has been made.

MICA supports:

- funding to address infrastructure needs for community mental health services;
- establishment of greater transparency and an appeals process to enable a county's ability to determine a client's readiness "to be returned to the community;"
- for planning purposes, counties should be given at least 45 days' notice of a decision leading to a client's release from hospitalization; and
- due to transfer and admission timelines being determined solely by the state, counties should be held harmless for the daily costs of care for clients referred to or transferred from one state operated facility to another (see above).

### **Bonding for Regional Behavioral Health Crisis Programs; Facilities Grants; Permanent Supportive Housing**

*The MICA Board of Directors urges the Legislature to support bonding proposals that strengthen the mental health continuum of care through regional behavioral health crisis programs and for the creation of new permanent supportive housing options.*

With a growing number of individuals experiencing behavioral health needs, it has become critical that additional resources become available to address gaps in the current behavioral health system throughout Minnesota. Resources need to be invested as follows:

- (1) Regional Behavioral Health Crisis Programs; Facilities Grants. These capital funds will allow for an infusion of investments to strengthen the behavioral health continuum.
- (2) Permanent Supportive Housing: Providing long-term, supportive housing is a key component to keeping people with behavioral health issues stable and, hopefully, preventing a future crisis from occurring.

The behavioral health system has numerous gaps, including supported housing on the front-end to prevent crises, as well as the back-end for an individual's return to the community. Affordable housing with embedded support services is limited. After individuals receive in-patient treatment and are stabilized, there often are no placement options. Low-income residents on public assistance programs often end up residing in in-patient facilities that can cost taxpayers up to \$1,866 (or more) a day per person. When basic needs, such as housing are met, crises are less likely.

The behavioral health system is strained. As noted by a recent Governor's Task Force, the behavioral health continuum has never been fully developed. When services are not available, or an individual is receiving the wrong level of care, his or her progress in treatment and recovery is dramatically impacted. The shortage of in-patient beds stresses emergency rooms and overcrowds our local jails. Emergency departments and jails do not provide the appropriate setting to help someone experiencing a mental health crisis, and discharge from those settings often does not include the establishment of community supports.

Continuum gaps vary across regions, but may include the lack of:

- Community-based services to serve people prior to (preventive) or after a hospitalization.
  - Immediate access to care for individuals who do not need the emergency department level of care or hospital admission.
  - Community and regional collaboration, which provides differing levels of care, while smoothing the person's transition back to his or her home environment.
  - Crisis response with adequate follow-up and referrals to appropriate care providers, which would minimize readmissions.
  - A step-down or transition process from one point in the continuum to another.
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MICA supports bonding proposals to address gaps within our behavioral health system. MICA further supports legislative authority allowing DHS and counties to work toward unique, community-specific solutions to fill behavioral health system needs in individual counties/communities.

### Human Services Financing

***The MICA Board requests that the Legislature reverse the legislative trend of balancing the budget by transferring the cost of state-mandated health care and social services to county taxpayers; that it refrain from imposing further unfunded mandates; and that it restore the funding previously withdrawn from existing mandates. The Legislature should direct 100% of the savings accruing from the County Cost Shares for the AMRTC, CBHH, and Competency Restoration Programs to a designated fund to be used by counties to develop community-based services.***

In the early 1990s, as a property tax relief strategy, a 10-year transition for the state to take over all costs of the benefits in income maintenance programs was initiated and subsequently fully implemented. However, the state reneged on its commitment to pay all of these costs in exchange for counties surrendering homestead and agricultural credit aid on a dollar-for-dollar basis for the state takeover. Therefore, county fiscal responsibility for social service programs was not changed or reduced. These cuts in state funding, enacted in 2003, should be restored.

In recent years, a number of social services costs have been shifted to Medical Assistance (MA), such as waiver programs for people with disabilities. However, other costs to counties, particularly in the areas of Child Welfare, Mental Health and, more recently, in MNsure, have increased significantly, as has the burden on county property taxpayers. Specific examples include:

- The state requires counties to pay a portion of the non-federal share of Medical Assistance costs for stays in excess of 90 days in the following situations:
    - 10% for individuals placed in Intermediate Care Facilities for the Developmentally Disabled (ICF/DD) of seven beds or more; and
    - 10% for disabled individuals under age 65 placed in nursing homes.
  - Counties pay up to 100% for individuals admitted to State Operated Services (SOS) facilities for treatment of mental illness. During the 2013 legislative session, the county share costs on stays over 30 days increased from 50% to 75%. The county share for individuals committed to the Minnesota Security Hospital also increased from 10% to 50%. In 2015, legislation was passed that requires counties to pay 100% of the cost for days not meeting hospitalization criteria for individuals at the Anoka Metropolitan Regional Treatment Center. As a result, the state was able to book savings of \$1.8 million for FY16-17 and \$1 million for FY18-19.
    - The share is dependent on the length of stay and a determination of medical necessity.
    - Due to the state's current process for determining medical necessity, counties are often notified well after the fact of a client not meeting criteria for hospitalization, which automatically increases the cost share to 100% county responsibility.
    - The current process for appealing medical necessity determinations only allows the client to appeal the medical necessity determination. Given that the counties are the responsible party for the cost of treatment, counties should also be an allowable party to submit an appeal. Additionally, the 100% county cost share should not be charged to the county until proper notice of the client not meeting medical necessity is received by the responsible county.
  - Until 2011, counties had been paying 10% of the cost for individuals committed to SOS facilities for sex offender treatment (Minnesota Sex Offender Program (MSOP)). In 2011, the Legislature increased the county share for new sex offender commitments to 25%.
  - Since 1999, Minn. Stat. §253B.185 has required the state to pay for 50% of the cost of "holds" (temporary confinement) of sex offenders being petitioned for civil commitment. Only once since 1999
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has the Legislature appropriated any money for this purpose. Counties are paying 100% of the hold costs at SOS facilities or jail facilities – whichever the offender chooses.

- Counties currently pay a match for the Basic Sliding Fee (BSF) child care program equal to their required contribution in 1996. The match varies from zero to 15%, with an average of 3.5%.
- Counties currently pay 100% of the expenses related to detoxification services.
- In 2011, Minnesota’s state government was shut down because of an impasse related to the state budget. When an agreement was finally reached during the Special Session, the counties’ cost share for chemical dependency services was increased from 16.14% to 22.95%.
- In 2012, legislation was passed that allows youth in child foster care to remain there until age 21 under certain circumstances. Although some federal funds are allocated for this purpose, no state funding was appropriated for this change. The Legislature should allocate sufficient dollars to counties to fully fund the costs of the 2012 state and federal requirement.
- In 2016, despite the state enjoying a surplus, the Legislature again shifted substantial costs to counties through changes in Direct Care and Treatment:
  - Counties are now paying 100% for Community Behavioral Health Hospitals (CBHHs) for those no longer meeting medical criteria for facility-level care. Also, daily rates were increased by more than 50% (2016: \$1,209; 2017: \$1,866).
  - Using anticipated changes to occupancy across the CBHH and AMRTC hospital systems, coupled with the rate changes and cost responsibility shifts, the state booked savings of \$3.9 million for FY17 and \$14.1 million for FY18-19 - attributed to new Cost of Care Recoveries paid directly from county levy funds.
  - Counties are now paying a share for the State-Run Competency Restoration Program. The state booked savings of \$3.4 million for FY17 and \$9.1 million for FY18-19.
- In 2017, despite a surplus, counties picked up two additional cost shares:
  - Counties are now paying 15.7% of the non-federal costs related to the MnCHOICES long-term assessment tool. The county share goes up to 18.1% on July 2, 2019. The state booked savings of \$19.3 million in FY18-19 and \$22.3 million in FY20-21 by transferring this cost to counties.
  - The Legislature amended the statutes regarding counties’ provision of services for extended foster care for children up to age 21. Although the original initiative passed in 2012, the language was permissive and gave counties some discretion to provide services “to the extent funds are available.” The 2017 Legislature amended the statute, resulting in yet another mandate/cost share for counties to provide the services without the needed dollars to provide the services.

With little exception, the savings accruing from the county assumption of these programs’ costs is returned to the State’s General Fund; therefore, it rarely supports the operations of the corresponding programs or facilities. These adjustments to shift costs are considered “incentives” for counties to develop community-based services.

The 2017 Legislature did appropriate \$2.2 million per biennium for “Mental Health Innovation Grants.” These dollars represent partial funding that the state receives from county cost shares at AMRTC and CBHHs. The money will be redirected from the General Fund to grants that will be used build and expand the community-based mental health infrastructure to support people with serious mental illnesses to live in the community and to avoid unnecessary placement in state-operated facilities. While this is a start, it represents a very small percentage of what counties are paying into the system - estimated to be approximately \$24 million per year.

When an individual is receiving care at AMRTC, a CBHH, or the residential competency restoration program (CRP) and no longer requires the level of care these programs provide, counties are responsible for 100% of the cost. While the recent increases in county shares have facilitated more proactive discharge planning, they have also highlighted barriers related to finding community placements for people once they no longer need care at a state-operated facility. Until this year, all of the revenue collected from counties for cost-of-care went back into the state’s General Fund, where it supports the entire range of state-funded priorities - rather than specifically helping to address the underlying issues leading people to stay in state-operated facilities when they do not need that level of care.

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The MICA Board urges the Legislature to meet its statutorily-required funding obligations and, further, to refrain from imposing additional mandates and cost shares on county taxpayers. Additionally, MICA urges the Legislature to redirect 100% of the resources accruing from the County Cost Shares for the AMRTC, CBHH and Competency Restoration Programs to a designated fund to be used by counties to develop community-based services.

### **Sensible Maintenance of Effort (MOE) Policy**

***The MICA Board of Directors urges the Legislature to modify or eliminate MOE requirements that are counter-productive to budgetary prudence. Specifically, the MICA Board supports the repeal of the mental health maintenance of effort.***

Over the years, the Legislature has enacted numerous MOE requirements dictating county spending and spending increases in various mandated programs. While these requirements may have been intended to protect an important public endeavor, they are all too often intransigent. MOE requirements are almost always rigid and inflexible, while the obstacles to be surmounted in the pursuit of the related public policy objectives constantly change relative to form and extent. Specifically mandating a level of spending on a public policy that has been attained or a need that has dissipated, or can be better attained through an alternative, less-expensive technique, is wasteful. Examples of this are the set of mental health mandates first enacted in 2006. These MOE requirements are based on historic spending. In cases where unusually high, but temporary spending is required, permanent spending increases become mandated - even if the need decreases. It would be much wiser and more cost-efficient if the Legislature would identify desired objectives without attaching MOE requirements.

There has been an increasing legislative awareness of the deficiencies of the MOE concept, and some progress toward easing the counties' MOE burden was made during the 2009, 2010 and 2011 legislative sessions. In 2010, the Legislature agreed to eliminate the county chemical dependency MOE, effective July 1, 2010. Passage of the legislation increased transparency and budget predictability in an area that was formerly governed by a complicated formula. In 2011, the Legislature agreed to a 10% permanent reduction in counties' mental health MOE.

Despite this limited progress, additional change is needed. Counties remain subject to a child care MOE that requires a fixed local match equal to their contributions made in calendar year 1996. Also, while counties did receive a 10% reduction to the mental health MOE in 2011, counties are still required to maintain a level of expenditures that are at least 90% of the average expenditures for services for calendar years 2004 and 2005. This type of mandate on counties is no longer necessary in light of the fact that the Affordable Care Act mandates coverage of mental health and substance abuse as one of ten essential benefit categories. Individual and small group health plans will also now be required to provide these services.

The MICA Board urges the Legislature to repeal the mental health MOE altogether and, further, abandon the MOE system as a whole and rely on performance reviews during the budgeting process and regulation oversight by the state agencies involved with the service providers. Finally, there should be an emphasis on services that effectively produce intended outcomes for clients, lessen the likelihood of unnecessary cost increases and allow for on-site flexibility.

See also "Statement of Principle for State Grant Maintenance of Effort Requirements and Anti-Supplantation Rules" in the Tax and Fiscal Policy section above.

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### Administrative Simplification

***The MICA Board of Directors urges the Legislature to continue moving forward in its efforts to streamline health and human services programs.***

In 2014, the Legislature appropriated \$385,000 for FY14-15 and \$11.139 million for FY16-17 for administrative simplification. These dollars are being used in efforts to provide uniformity in eligibility requirements across the various income and support programs, including the Minnesota Family Investment Program (MFIP), the Diversionary Work Program (DWP), General Assistance (GA), Minnesota Supplemental Assistance (MSA) and Group Residential Housing (GRH). This streamlining has led to uniform policies on asset limits, earned income disregards, simplified self-employment determinations and verification and documentation standards.

The 2015 Legislature continued to build on 2014 efforts by making uniform income calculations, reporting of income and changes to income, and correcting overpayments and underpayments. The final agreement included full funding for the initiative of \$278,000 for FY16-17 and \$420,000 for FY18-19.

Reducing this complexity has shown a positive impact on streamlining county processes, as well as easing the burden on county and state resources. This simplification has allowed counties to increase focus on the actual individual – rather than public assistance programs – in our efforts to move participants toward self-sufficiency.

While legislation has been passed and money appropriated, IT problems continue to plague the state and create inefficiencies for county staff and people served. Implementation of the MNsure IT system became the first step for DHS modernization. Challenges with that system have delayed the next steps for an integrated eligibility system. DHS is proceeding with systems modernization efforts, including beginning to develop an Integrated Service Delivery System (ISDS) that will eventually replace many of the legacy systems that are central to providing human services through the counties. The governance structure for ISDS is in place, and several projects are underway. However, it could take several years for all of the complex IT system challenges to be resolved. This process will take significant county involvement.

The MICA Board asks that immediate priority be given to investments in Minnesota Eligibility Technology System (METS') capability to efficiently process eligibility for Minnesota's publicly-funded programs. The Board also supports the continuing goal of ensuring health care is integrated with other human services programs as part of an integrated eligibility system.

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### Child Protection Services

***The MICA Board of Directors urges the Legislature to provide permanent adequate funding to support child protection, including out-of-home placement and related costs, and to allow counties flexibility related to the continuum of services related to child protection. Counties should be held accountable for specified performance standards through the Human Services Performance Management system, rather than the arbitrary 20% withhold currently in statute. Further, investment in the Vulnerable Children and Adults Act (VCAA) should be increased.***

Child abuse and neglect have an impact far beyond any isolated event. Children who have been abused or neglected are at greater risk of poor mental and physical health, educational problems and other problems that carry over into their adult lives. It is critical that we achieve statewide results in keeping our children safe and families intact.

Recent challenges to child protection services led DHS and the Legislature to commit to a review of the entire system. Governor Dayton appointed a "Child Abuse Task Force," comprised of state and county experts, law enforcement, physicians, judges and advocates. The 2015 Legislature addressed a number of the Task Force recommendations and appropriated to counties \$44 million per biennium; however, those dollars are restricted for

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county human services staffing only. The Legislature failed to provide funding for out-of-home placement and related costs, which have increased significantly throughout the state.

Counties have other expenses and investments related to the provision of services to families in the child protection system and achieving child protection performance measures and outcomes. Counties need greater flexibility to invest in a continuum of services and resources to produce the desired outcomes for children, to include actual costs for, not only social services, but also costs related to out-of-home placement, including county attorneys, sheriffs, legal representation, courts, etc.

In addition, the 2015 legislation included a 10% withhold for each county that is contingent on monthly face-to-face visits by child protection workers, as well as a second 10% withhold for face-to-face visits by case managers. While counties do not object to being held to performance standards, it should be conducted in a uniform and consistent manner. This methodology already exists under the Performance Management System for Human Services (Minn. Stat. §§ 402A.12; 402A.18), which has a functioning process that involves counties, DHS and stakeholders. Counties prefer to be managed through that system and have the same remediation and fiscal sanctions process as has been already been approved by DHS and codified in Minnesota statutes.

Therefore, it is proposed that 100% of the full allocation be given and that counties be held accountable for the specified performance standards through the Human Services Performance Management system (Minn. Stat. sections 402.1-50). This would require the “sunsetting” of Minnesota Statutes, section 256M.41, subdivision 3, by year 2019. This proposed remedy assists counties in better serving the increasing number of children and families entering the child protection and foster care system and provides the needed resources for counties to be held accountable for existing specific and unified performance standards established by the Performance Management System for Human Services.

In 2005, \$25 million in annual cuts to state grants to counties through the Children and Community Services Act (CCSA) were made permanent. In 2011, CCSA was further cut by \$11 million annually and renamed the Vulnerable Children and Adults Act (VCAA) with both child and adult mental health services withdrawn from this source of funding. Despite the 2015 legislation, counties have not been made whole from previous cuts.

The MICA Board of Directors requests:

- That the Legislature provides permanent adequate funding to better support child protection, including out-of-home placement and related costs. Consistent with MICA’s position on other county financing, emphasis should be on services that effectively produce intended outcomes for clients and allow for county flexibility and compensation for actual costs.
- That counties should be held accountable for specified performance standards through the Human Services Performance Management system, rather than the arbitrary 20% withhold currently in statute.
- That investment in the VCAA be increased.

#### **Non-Emergency Medical Transportation for Medical Assistance Clients**

*The MICA Board of Directors supports the state takeover of the administration and funding of a statewide nonemergency medical assistance (NEMT) management system.*

Counties are required to provide access transportation services (ATS) for ambulatory, fee-for-service Medical Assistance (MA) clients to get to and from health care appointments. The county-administered system requires that counties develop and maintain an administrative structure to assure that clients have access to health care services. This structure may rely on buses, taxis, volunteer drivers, or other transit systems. DHS has complex requirements for accountability for rides and reimbursement.

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DHS provides similar special transportation services (STS) to non-ambulatory, fee-for-service MA clients to get to and from their health care appointments. DHS currently conducts level-of-need evaluations for MA clients to determine the level of transportation services needed. ATS and STS both fall under the umbrella of “nonemergency medical transportation” (NEMT). In 2004, DHS utilized a third party transportation coordinator for all NEMT services in 11 counties, including the metropolitan area.

In 2009, the Legislature eliminated state funding for the administration of the transportation management system for ATS in the 11 counties. This shifted management responsibility to the 11 counties, as well as substantial cost to county property taxpayers in excess of \$2 million per year.

The 2009 legislative change, and subsequent recommendation by the Office of the Legislative Auditor (OLA) to create a single administrative structure to administer both ATS and STS statewide, triggered the Legislature to empanel an advisory council to look at the issue in 2012. In 2014, the advisory council forwarded its recommendations to unify administration of both ATS and STS under the counties and required the state to develop and fund a web-based dispatch system by July 1, 2016. While the policy recommendations were accepted and enacted, they have not been funded.

Finally, in 2015, the Office of the Inspector General (OIG) studied the NEMT system and—discovered a considerable amount of provider fraud within the NEMT system, including:

- 26.7% of trip records were inadequate to conclude that the trip was for a covered service
- 41.5% of records were inadequate to conclude that the trip occurred
- 46% of claimed trip mileage was in excess of 2 miles of the calculated miles based on two different mileage calculators

NEMT is a MA benefit that should be managed by a single administrative entity. The Minnesota Department of Human Services is best positioned to do this. The existing bifurcated system between the state and counties is simply not efficient from a management perspective. The MICA Board asserts that management of NEMT should be returned to the state to ensure consistent access to the least-costly option for transportation that is appropriate for the individual and which will provide for the effective administration of provider quality.

### **Adequate Funding for Minnesota Health Care Programs**

*The MICA Board of Directors urges the Legislature to provide adequate funding for Minnesota health care programs.*

MinnesotaCare is an integral element of the state’s health care system providing critical health care for those otherwise likely to fall into a health care coverage gap. It provides affordable health care for moderate income individuals and families and is a fundamental part of the state’s MNsure health insurance exchange. MinnesotaCare became the state’s Basic Health Program in 2015, and the state is receiving a subsidy of 95% of the amount the federal government would otherwise have spent on premium tax credits and cost-sharing subsidies for individuals enrolling in MinnesotaCare.

In addition to the 1% tax on the gross premiums of HMOs, nonprofit health service plan corporations and community-integrated networks, MinnesotaCare also receives funds from a 2% provider tax, which are deposited in the Health Care Access Fund (HCAF). The provider tax is scheduled to expire in 2019, making MinnesotaCare’s long-term funding prospects dire. Recent discussions at the congressional level compound the uncertainty as to how this public program will be funded.

If the Legislature is to remain committed to providing health care to moderate income individuals and families through MinnesotaCare, and wishes to continue offering MinnesotaCare as its Basic Health Program, the MICA

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Board requests that the Legislature devise a permanent solution for the projected funding shortfalls in the Health Care Access Fund with a focus on the Task Force goals of sustainable, quality health care for all Minnesotans.

### **Increase Access and Targeted Funding for the Basic Sliding Fee Child Care Program**

*The MICA Board of Directors urges the Legislature to increase funding for the Basic Sliding Fee (BSF) Child Care Program to meet actual need. MICA supports the State of Minnesota taking over the fiscal management of the BSF funds. Further, dollars recovered as a result of fraud should be reinvested into the BSF child care program.*

Early childhood care and education has many benefits, including:

- an economic development for businesses and communities
- an education and school readiness program for children
- a work support program for parents
- a child welfare program devoted to preventing both physical and developmental harm to children

Insufficient targeted funding is available to assist low-income families in securing quality child care. The 2003 Legislature cut state child care funding by \$86 million, which included a 50% decrease in the amount of state assistance available to the BSF Child Care Program. In addition, eligibility requirements were dramatically tightened from 250% of FPG to 175% of FPG. Because of the cuts, the average number of families served by the BSF Child Care Program per month dropped from 12,500 in 2003 to 9,100 in 2004, to 8,121 in 2015. As of July 2016, 5,754 families remain on the BSF waiting list. When child care is unaffordable or unavailable, parents stay out of the workforce and public assistance rolls increase.

Counties receive an annual allocation for the BSF Child Care Program. Once a family is determined eligible, they remain on the program as long as they are eligible and need care. DHS reviews the use of BSF allocations by county on a quarterly basis. The program is so complex and cumbersome that counties experience extreme difficulty in tracking their expenditures and moving families off the waiting list. This has resulted in underspending of BSF funds for many years.

Although current law allows DHS to reallocate unexpended or unencumbered money among other counties who have expended their full allocation, and allow counties to expend up to 10% of their allocation in the subsequent allocation period, in 2013, the state actually booked \$5 million in savings due to underspending – even though, at that time, more than 5,000 families remained on the waiting list. In 2015, no funds were left unspent; however, because all overspending is the responsibility of the local agency, counties that spent more than their allocated funds were required to find the additional funds within their own budgets, resulting in the unplanned use of more than \$1.9 million in local property tax dollars. This is problematic for many counties who continuously overspend BSF funds.

As illustrated, because the funding and administration of BSF is so complex, the result is much unpredictability that can result in wild swings between overspending and underspending. A comprehensive statewide approach to early childhood care and education will maximize the benefits obtained from each dollar spent. Because the program is so difficult to manage, MICA supports the state taking over the fiscal management of the BSF funds. This could potentially be paid for by reducing the amount allocated to each county for the administration of the program and, in turn, create an administrative unit at DHS.

Finally, DHS, through its Office of the Inspector General, recently uncovered \$1 million in fraud – involving only four child care centers. With families waiting for child care assistance, dollars recovered as a result of fraudulent activity should be reinvested into BSF child care.

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### **Mandatory Liability Insurance for Licensed Family Child Care Providers**

*The MICA Board of Directors supports the requirement that licensed family child care providers show proof of insurance prior to a license being issued or renewed. MICA further recommends that the “actual knowledge” exception relative to county immunity for child care licensing be repealed from Minn. Stat. §466.03, subdivision 6(d).*

There have recently been a number of deaths and injuries of children cared for in licensed family child care facilities. Currently, licensed family child care providers are encouraged to carry liability insurance and must inform parents of the status of their liability insurance. However, not all providers carry insurance, and not all providers remember to let parents know if their insurance lapses. Insurance protects the provider and the family. It also financially protects the licensing county from litigation by families if a child is injured.

A review of the insurance market shows that liability insurance for family child care businesses is available, affordable and 100% tax deductible. Insurance companies assess the risk and base their rates on a provider’s history and business practices. The desire to get the best insurance rates provides an incentive for following the rules on capacity, supervision and safe sleep practices.

Family child care providers are encouraged but not required to carry liability insurance. The State Tort Claims Act (Minn. Stat. §3.736, subd. 3(k)) protects the state and its employees against tort claims “based on the failure of a person to meet the standards needed for a license, permit, or other authorization issued by the state or its agents.” However, the Municipal Tort Claims Act includes an exception that relates to the licensing of a day care facility under chapter 245A for children, that gives municipalities (i.e., counties) immunity only if they did not have “actual knowledge of a failure to meet licensing standards that resulted in a dangerous condition that foreseeably threatened the plaintiff” (Minn. Stat. §466.03, subd. 6(d)). Case law has concluded that municipal immunity, not state immunity, applies to the claim of negligent licensing of a child care home by a county. What constitutes “actual knowledge” is a fact-driven inquiry, which in most cases can only be resolved through trial. Counties have faced significant staff costs in response to claims filed following incidents in licensed family child care homes.

There have been concerns raised in past legislative sessions regarding the application of Minn. Stat. §245C.14, subd. 1, paragraph (2), which states that “preponderance of the evidence indicates the individual has committed an act or acts that meet the definition of any of the crimes listed.”

Although the 2013 Legislature passed language requiring child care license holders to provide a written notice to all parents or guardians of all children stating whether or not the license holder has liability insurance, the MICA Board supports insurance requirements for all licensed family child care providers. MICA further recommends that the “actual knowledge” exception be repealed from Minn. Stat. §466.03, subdivision 6(d).

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### **Safe Harbor/No Wrong Door for Sexually-Exploited Youth**

*The MICA Board of Directors urges the Legislature to develop a best practices-based continuum of care model for sexually-exploited youth, and to provide full funding to county human services agencies to implement the recommendations.*

In 2011, the Legislature passed the “Safe Harbor” law, which added the definition of sexually-exploited youth to Minnesota’s child protection codes; increased the penalties against commercial sex abusers or purchasers; and directed the Department of Public Safety (DPS) to work with stakeholders to create a victim-centered, statewide response for sexually-exploited youth.

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During the 2014 legislative session, the Minnesota Department of Health (MDH) received \$900,000 to fund comprehensive supportive services, including trauma-informed and culturally-specific services. In addition, on August 1, 2014, two additional policy provisions went into effect:

- The exclusion of sexually-exploited youth, under the age of 18, from the definition of "delinquent child." Minnesota children who are engaged in sex trafficking are now treated as victims - not criminals. As victims, they are to be directed to supportive services to meet their needs; and
- Implementation of the "No Wrong Door" state service model, which makes available resources and services for sexually-exploited youth, including regional navigators, housing and shelter, comprehensive services and training and protocol development.

In 2015, money was appropriated from both the DHS and MDH budgets as follows:

- DHS: Safe Harbor for Sexually-Exploited Youth Child and Economic Support Grants: \$1.6 million per biennium for emergency shelter and transitional and long-term housing beds for sexually-exploited youth and youth at risk of sexual exploitation. Of this appropriation, \$150,000 in FY16 and \$150,000 in FY17 are for statewide youth outreach workers connecting sexually-exploited youth and youth at risk of sexual exploitation with shelter and services.
- MDH: Safe Harbor for Sexually Exploited Youth Outreach: \$1.4 million per biennium for grants to increase the number of regional navigators; training for professionals who engage with exploited or at-risk youth; implementing statewide protocols and best practices for effectively identifying, interacting with, and referring sexually-exploited youth to appropriate resources; and program operating costs.

In 2017, money was appropriated from both the DHS and MDH budgets as follows:

- DHS:
  - Safe Harbor for Sexually Exploited Youth: \$1.1 million per biennium for emergency shelter, transitional and long-term housing beds, as well as dollars for outreach workers to connect youth with shelter and services.
  - An additional \$152,000 was appropriated for child welfare services for sexually-exploited youth.
- MDH:
  - Safe Harbor for Sexually-Exploited Youth: \$1 million per biennium for trauma-informed, culturally specific services, as well as training and technical assistance to individuals and organizations that provide safe harbor services and technical assistance in establishing best-practices-based systems for identifying youth.
  - An additional \$73,000 was appropriated for the development of a Statewide Sex Trafficking Victims Strategic Plan. The commissioner of health shall consult with the commissioners of public safety and human services and report back to the Legislature by January 15, 2019, on the development of the plan, including recommendations for additional legislation and funding.

What is missing is a continuum of care model to support these children. Because traditional services are not adequate, some children are being sent to out-of-state facilities at large expense (as much as \$600 per day) and with little success. Service providers must learn to better understand juvenile sexual exploitation and how to respond. Extensive services are necessary, including health care, mental and chemical health, aftercare and relapse prevention, family reunification, as well as general advocacy, legal, education and employment services. Because primary service responsibility is placed with child protection, funding should flow either directly to county health and human services agencies or, in the alternative, through DHS.

The MICA Board supports the development of a continuum of care model for sexually-exploited youth, based on best practices, and to provide full funding to county human services agencies to implement the recommendations.

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## Support and Funding for Implementation of Minnesota Olmstead Plan

***The MICA Board of Directors urges the Legislature to provide adequate support and funding to counties for the necessary community-based capacity development efforts and increased costs of implementing the integration reforms relative to the Minnesota Olmstead Plan.***

In 2015, a federal court judge accepted the Jensen Settlement Agreement, the result of a lawsuit filed against the Department of Human Services (DHS), alleging that people receiving state operated services were unlawfully and unconstitutionally secluded and restrained. To fulfill the requirements in the “Jensen Settlement Agreement,” a Comprehensive Plan of Action was established by DHS, which included the closure and replacement of the Minnesota Specialty Health System-Cambridge facility with community homes and services, the implementation of the Minnesota DHS Positive Supports Rule and the implementation of Minnesota’s Olmstead Plan (Olmstead).

Olmstead, which is designed to ensure that people with disabilities are able to live, learn, work and enjoy life in the most integrated setting of their choosing was approved in September 2015. The plan charts a course that will change the way state government provides services and supports for Minnesotans with disabilities. The plan recognizes that Minnesotans with disabilities want the chance to make informed choices about their lives and the opportunity to live in the most integrated setting they choose. It calls for expanding integrated housing, employment and education options that will result in greater inclusion of people with disabilities in our communities. It also honors the decisions of people with disabilities who may choose options that are not integrated. Finally, the plan requires that wait lists for necessary services be addressed.

In March 2014, a new Rule issued by CMS went into effect, governing the provision of home and community-based services (HCBS). The purpose of these final regulations is to maximize the opportunities for people receiving HCBS, including opportunities to realize the benefits of community-living, receive services in integrated settings, and to seek employment and work in competitive, integrated settings. The rule aims to ensure an individual’s rights of privacy, dignity, respect, and freedom from coercion and restraint, facilitate individual choice regarding services and supports, and who provides them, and optimize individual initiative, autonomy and independence in making life choices. The rule also includes specific requirements around service planning that utilizes a person-centered methodology and informed decision-making processes.

Compliance with the HCBS Rule is mandated by CMS. To that end, DHS is developing formal implementation strategies. Counties will be required to participate in the collection, tracking and updating of baseline data, implement person-centered planning and informed decision-making processes, develop and monitor community-based capacity, ensure services are provided in the most integrated setting, and implement quality assurance and improvement processes. Counties will also be responsible for meeting the goals around HCBS Waiver wait lists required by Olmstead. Compliance with the Jensen Settlement terms was effective at the time of settlement in 2011, and implementation is on-going. Full compliance with the HCBS Settings Rule is required by March 2019. Implementation efforts will require a significant amount of financial resources, new training, administrative support, more intensive tracking, monitoring and oversight, and a different level of involvement on the part of case managers.

Counties are supportive of implementation efforts. To that end, we have begun preparing for the various integration reforms by making significant investments in data collection, training and education for families, staff, providers and other stakeholders, communication strategies and integrated, community-based capacity development. These investments have been made in order to ensure that services and supports are delivered in a manner consistent with the terms of the Jensen Settlement, and the vision and mandates set forth in Olmstead and the HCBS Settings Rule. However, significant state financial investment is needed for staff resources and required training, as well as for the capacity development for community-based services and supports.

The MICA Board of Directors requests the Legislature to provide adequate funding for counties for costs related to the necessary community-based capacity development efforts and to cover the increased costs of implementing the integration reforms. Realizing the common vision laid out in these reform efforts - that people with disabilities be able

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to live fully included, thriving lives in their communities - is some of the most important work to be done by counties. Therefore, it is also imperative that counties be part of any planning processes and have input into all considerations brought forward.

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# MICA 2018 Legislative Recommendations

## Corrections and Public Safety

### Corrections and Public Safety Priorities

- **Focus State Corrections Resources on Community Supervision**
- **Reform Minnesota Sex Offender Program (MSOP)**
- **Address the Mental Health Crisis in County Jails and Juvenile Facilities**
- **Help Counties Deal with the Impacts of the Opioid Crisis**

#### Focus State Corrections Resources on Community Supervision

*The MICA Board of Directors urges the Legislature to increase the state's funding for the core supervision functions, delivered primarily at the county level, of Minnesota's cost effective community-based corrections.*

Minnesota is recognized as having the most cost-effective corrections system in the nation, yet it maintains one of the lowest crime rates. Minnesota's past success is the result of a focus on a robust community supervision model integrating best practices through effective local probation and policing. Minnesota counties play a central role in Minnesota's community-driven criminal justice system, but this model is in jeopardy due to years of neglected state support for the core functions of community corrections and probation. Community supervision of offenders on probation is one of the most important elements of this effective model. Minnesota has more than 104,000 people under some sort of community supervision while there are only about 10,000 in our state prison system.

#### Budget Appropriations Comparisons State Criminal Justice Accounts

*(\$ In thousands... add 000; numbers listed are for each of the legislative appropriations for the two fiscal years in each biennium including general and special funds)*

Select Appropriations Accounts in criminal justice bills	2001 bill Spec session chapter 9, art 18 fy02-fy03	2003 bill Spec session chapter 2, art 1 fy04-05	2005 bill HF 1 fy06-fy07	2007 bill HF829 & Chapter 363 fy08-fy09	2009 Bill Chapter 83 & Chapter 215 fy10-fy11	2011 Spec session chapter 1 fy12-fy13	2013 Conf. Report 5/14/13 fy14-fy15	2015 bill Chapter 65 fy16-fy17	2017 bill Chapter 95 fy18-fy19	Biennium Change 2015 to 2017	Change from FY02 to FY19
<b>DOC Management and Institutions.</b>	\$238,195 \$245,669	\$251,326 \$254,444	\$302,739 \$316,429	\$341,008 \$354,560	\$353,464 *\$355,170	348,086 349,095	367,292 372,600	405,994 413,558	455,644 454,925	+11.1%	+91.0%
<b>District Courts</b>	\$118,470 \$128,842	\$175,287 \$196,633	\$231,039 \$231,386	\$246,077 \$252,166	\$247,434 \$244,617	233,511 236,826	247,459 256,622	266,645 277,147	290,987 298,968	+8.5%	+152.4%
<b>Public Defense</b>	\$50,723 \$54,709	\$53,763 \$46,082	\$60,703 \$61,801	\$66,348 \$68,028	\$66,262 \$65,826 **	65,976 65,976 **	70,698 73,612	77,429 82,662	85,949 88,310	+8.8%	+74.1%
<b>***Community services</b> (includes \$ for probation to counties, DOC, and all special grants)	\$109,252 \$113,488	\$94,239 \$95,325	\$103,456 \$103,269	\$119,821 \$118,512 ***	\$113,278 \$110,905	111,294 111,294	114,178 114,704	121,018 122,033	129,498 130,218	+6.9%	+19.2%

\*DOC's fy10 appropriation includes federal stimulus money used to backfill general fund cuts.

\*\* Public defender fy10 and fy11 appropriations includes increased attorney license fees dedicated to public defender to backfill in general fund cuts.

\*\*\*The significant increase in the 2007 budget was mostly the result of an increased reimbursement for short-term offenders. Even though we appreciated the funding for the short-term offenders the reality is that the mandated cost was twice the reimbursement. Therefore, it looks like a significant increase in 2007, but in reality with the short-term offender mandate counties again came out on the losing end of what looks like an increase.

Research has shown that effective, evidenced-based community supervision results in reduced recidivism compared to incarceration. But implementing those practices is resource intensive and state funding has not been sufficient to ensure those positive results. We are appreciative of the new funding provided by the legislature last biennium; however community supervision continues to draw the short straw in the criminal justice funding game. For example, Minnesota law states that counties under the County Probation Officers (CPO) system should receive a 50% cost reimbursement from the state. Presently the state's share is a near record low 29.8%. Counties under the Community Corrections Act (CCA) have also seen their portion of total costs skyrocket. Over the last 16 years state funding for state trial courts had a 152% increase, state prisons had a 91% increase, and public defenders had a 74% increase. Unfortunately, funding for county corrections went up only 19% for that same 16-year period. It's not surprising we are starting to see state prison bed increases outpacing bed forecasts from the DOC. Focusing resources on programs that are proven to reduce recidivism, most of these being programs in the community, is the key to turning that trend around.

In addition to this disproportionate decline in the state's commitment to community corrections, Minnesota has a poorly designed state funding mechanism. Simply put, the present system appropriating state funds for community supervision is broken. The method for distribution of state resources has not been transparent or able to meet the growing needs. To preserve our cost-effective model, the state must develop a single, clear, community supervision financing formula that is based on need. Further, this formula should be tied to the legislative fiscal note process so that when needs expand, penalties are increased, or new crimes are created, the additional supervision costs will be recognized as a state fiscal impact. To increase transparency, this funding should be more clearly delineated during the budget process, rather than hidden within the DOC budget.

#### **Help Counties Deal with the Impacts of the Opioid Crisis**

*The MICA Board of Directors requests that all possible tools to fight opioid addiction be made available to counties and any financial resources spent on this issue be shared with counties.*

Resources are being made available to combat the ever-growing epidemic of opioid addiction. Any funding awarded to the state or appropriated by the legislature should be shared with counties that are the front lines of dealing with the impacts of this crisis. Beyond funding, the legislature should ensure that counties have all possible tools available to them. This would include clarifying that all first responders are authorized to carry and use Naloxone (Narcan) and that liability protections for Naloxone use are extended to any county staff that have frequent contact with an addicted population.

#### **Address the Mental Health Crisis in County Jails and Juvenile Facilities**

*The MICA Board of Directors urges the 2018 Legislature to ensure that adequate capacity, record sharing and protocols exists to serve the mentally ill in our jails and juvenile detention facilities.*

Local jail sheriffs estimate between 25 to 30 percent of jail inmates suffer from diagnosed and undiagnosed mental illness. In 2013, a law was enacted to provide for the transfer of such inmates to state facilities in 48 hours. Unfortunately, inadequate capacity and staffing of available state facilities have prevented timely placements for about 50% eligible inmates. These delays and inadequate laws to help with appropriate sharing of medical records have put inmates, jail staff and the public at risk. The Legislature needs to allow for appropriate record sharing to allow for better assessment, better protocols for placement of those jail inmates diagnosed as mentally ill and additional state placements for those mentally ill jail inmates. Counties must have more timely notice of DHS' determination that the mentally ill inmates do not qualify for hospital level of care at DHS facilities and the option to appeal those unilateral determinations. In addition, for those who truly do not qualify for hospital level of care but remain mentally ill and unable to integrate and function in a jail environment, other options for placement must be provided.

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The issues facing juvenile facilities require very different solutions than in our jails, but many of the youth served in our facilities face complex mental health issues that require partnership with the state to be sure appropriate treatment is provided.

### **Reform Minnesota Sex Offender Program (MSOP)**

***The MICA Board of Directors calls on the 2018 Legislature to update the sex offender civil commitment review process and the funding structure for the Minnesota Sex Offender Program (MSOP). Because MSOP is a state program, the state should develop any necessary alternative facilities and provide the necessary security and funding to house the patients who are released from the MSOP program.***

Counties have multiple roles within the current civil commitment system. County attorneys prosecute the civil commitment petitions for those offenders that county staff evaluated to be at a high risk to reoffend. Counties pay 100% of costs at MSOP facilities for the sex offenders being held while the initial commitment petition is being processed and then 25% of the ongoing cost of housing and treatment for those who are committed to MSOP. County sheriffs or chiefs of police are responsible for community notification when sex offenders are released and move to a neighborhood. They are also responsible for significant transportation costs during the petitioning for commitment. Further, county probation staffs are responsible for overseeing those offenders who have time remaining in their period of supervised release. So far, the DHS has committed to supervise those civilly committed sex offenders on provisional release from MSOP. In addition to providing that supervision, DHS should retain financial responsibility for other social services and housing that the offender requires while in the community. Furthermore, community placements should be done in manner that does not disproportionately burden individual counties with offenders originally committed from other counties.

Just increasing criminal sentences does not solve the problem. In some ways it may increase the cost for counties in the long-term because they will be supervising more sex offenders who would have never been committed or pose no significant risk after the completion of the already extended supervised releases required for sex offenders. Further, criminal sentences cannot be increased for those already sentenced or committed.

Therefore, safe alternative community placements must be found in order to avoid the possibility of wholesale release of the currently committed sex offenders. For too long Legislators have avoided their responsibility to reform the civil commitment program for sex offenders when they arrive at the end of their treatment. Periodic reviews of individual offenders' treatment and commitments must be instituted along with funding for community-based facilities and staff to treat and supervise the offenders released to these less restrictive settings. Failure to do so could have a significant impact on the state budget and county property taxes, not to mention public safety.

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## MICA 2018 Legislative Recommendations Pensions & Other Local Governance Issues

### Pensions and Other Local Governance Priorities

- **Provide Funding Stability for PERA**
- **Require Employers to Meet and Confer on the Aggregate Value of Group Insurance Contracts**
- **Eliminate Required Pooling of Retired Employees with Active Employees for Employee Health Insurance**
- **Do Not Create a Presumption that PTSD Workers Compensation Claims Are Employment-Related**

#### Provide Funding Stability for PERA

*The MICA Board of Directors urges the 2018 Legislature to stabilize the PERA General Plan and Police and Fire Plan by eliminating the prospective increase in the annual cost of living increase from 1% to 2.5% and extending the deadline for amortization of the unfunded accrued liability for both plans. The MICA Board of Directors further recommends transitioning to full actuarial reductions of early retirement pensions and the elimination of COLA's before the normal age of retirement of 66 for the General Plan while increasing the employee and employer contribution 1% and 1.5%, respectively, over two years along with the payment of \$9 million of state aid annually for the Police and Fire Fund.*

The PERA General Plan and Police and Fire Plan have estimated deficiencies of (2.7%) and (1%) of payroll, respectively, on a market value basis if the interest assumption is changed from the current 8% to 7.5% as the State Board of Investment recommended.

As the Legislature addresses this issue, we urge that any solution be guided by three principles:

1. Long-term financial sustainability;
2. Shared sacrifice by all stakeholders – employees, employers, retirees and the state; and,
3. Intergenerational equity – costs and benefits must be balanced across employees and retirees.

A contribution increase should be the last choice for dealing with the deficiencies particularly given that the General Plan's employee contribution rate has increased 27.5% since 2004 while the employer contribution rate has increased 35.6% over the same time period. The Police and Fire Plan's employee and employer contribution rates have both increased 74.2% since 2004.

The General Plan's deficiency increases if current law's annual cost of living (COLA) increase - from 1% to 2.5% annually – occurs (even though under current projections that increase does not occur until 2046). That increase would then delay the date on which the plan's deficiency is amortized. The circular nature of what occurs under the contingent COLA increase – currently the COLA increase occurs when the plan reaches a 90% funding level for two consecutive years – strongly suggests that it be eliminated. The other two statewide plans, TRA and MSRS, are both proposing eliminating their contingent COLA increases.

Generous early retirement pensions are significant contributors to both the General Plan's and Police and Fire Plan's deficiencies. If the pension reductions for early retirement that are in current statute were replaced with their full actuarial equivalent, the deficiency of the General Plan would be reduced .6% of payroll. An additional .1% of payroll can be saved if the annual cost of living increases were eliminated for pensions received before the normal retirement age of 66.

The General Plan's statutory amortization date of 2033 is also problematic. It is currently the most ambitious of the three statewide plans – TRA's is 2037 and MSRS is 2041. PERA's 2033 deadline cannot be reached at current benefit and contribution levels. Extending the amortization date for the existing deficiency would reduce the plan's deficiency.

Increasing the employee and employer contribution 1% and 1.5%, respectively over two years along with the payment of \$9 million of state aid annually is also necessary to provide sustainable funding for the Police and Fire Plan.

Finally, the Legislature should provide prospectively that those members of employers who were privatized receive no more generous benefit augmentation than their public employee counterparts. Currently, public employees who quit before normal retirement age receive augmentation of their retirement benefits between 0% and 1% annually. Their counterparts whose employer was privatized receive augmentation of their benefits between 2% and 7.5% annually. That inequity should not be allowed to continue.

### **Require Employers to Meet and Confer on the Aggregate Value of Group Insurance Contracts**

*The MICA Board of Directors urges the 2018 Legislature to untie the hands of public employers to manage rising employee health care costs by changing MS 471.6161, subd. 5 so that employers must meet and confer with exclusive representatives before making changes in the aggregate value of group insurance contracts.*

Current law prohibits public employers from reducing the aggregate value of benefits provided by a group insurance contract - such as health insurance - for employees covered by a collective bargaining agreement without the agreement of the exclusive representative. This provision has created extreme problems for public employers trying to cope with rising health care costs and has limited them from making changes in health insurance benefits as a means of cost containment. The law will also create issues under the federal Affordable Care Act. For example, employers providing "high cost" health coverage of \$10,200 for single coverage or \$27,500 for family will be subject to a 40% federal "Cadillac" excise tax. Yet public employers facing this penalty will be unable to avoid it by reducing benefits and costs below these thresholds without the consent of the exclusive representative. The practical consequence of this is that future wage and salary increases will be cut absent employers having the flexibility to adjust their employee health care costs to avoid or minimize the Cadillac tax.

### **Eliminate Required Pooling of Retired Employees with Active Employees for Employee Health Insurance**

*The MICA Board of Directors urges the 2018 Legislature to eliminate the required pooling of retirees with active employees for employee health insurance.*

Under current law, local government employers are generally required to pool their under-65 retirees with their active employees for health insurance purposes. This drives up the cost of insurance for the active employees, which results in employees and the employer (and their taxpayers) paying higher premiums to cover the higher health care costs of the retirees. It also requires employers to carry "illusory" liabilities on their financial

statements related to this “implicit subsidy” - from active employees to retirees - or to needlessly set aside money in trusts for the payment of these “liabilities” under current accounting standards.

Elimination of the required pooling would eliminate these liabilities and costs for current employees, employers and taxpayers. Affected pre-65 retirees could still get their health insurance through the employers via a separate retiree pool or through the MNsure, where preexisting conditions no longer prevent getting health insurance and premiums are affordable because of available subsidies and limits on the additional premiums due to age. Furthermore, with the imposition of the 40% penalty on high cost “Cadillac” plans under the ACA beginning in 2020, the premium increases resulting from the pooling requirement can no longer be tolerated.

### **Do Not Create a Presumption that PTSD Workers Compensation Claims Are Employment-Related**

Posttraumatic Stress Disorder (PTSD) has been a covered illness since 2013 under the state’s workers compensation law. Since then, public sector employers and their insurers have been covering claims for such illnesses if the worker provides the required diagnosis of PTSD from a medical provider and the illness was employment-related. Legislation was introduced in 2017 that would require workers compensation coverage of PTSD for certain public safety employees regardless of whether the illness was related to the employee’s current employment. This exposes employers to additional claims not related to an employee’s employment. For example, a veteran who served in combat who had undiagnosed PTSD at the time of hire could make a workers compensation claim for PTSD even though the claim was unrelated to the individual’s current employment. This would be in spite of the fact that the Veterans Administration should be providing disability benefits for the illness (and may in fact provide them in addition to any workers compensation benefits that would be mandated.) Not only is this unfair to employers and their taxpayers but it also bears the potential of discouraging potential employers from hiring veterans to avoid the risk of incurring liability for a veteran’s undiagnosed PTSD (or the likelihood of incurring PTSD-based claims based on subsequent combat theater deployments if the veteran continues to serve in the National Guard or Reserves.) This would be contrary to state’s traditional emphasis on providing employment opportunities for veterans and encouraging service in the National Guard.

The state legislature should be enhancing the employment opportunities for veterans, not undermining them. Similarly, it should not be impeding employment opportunities of other individuals with traumatic events in their past such victims of violent crimes or sexual abuse.

### **Reform the Metropolitan Council**

*The MICA Board of Directors urges the 2018 Legislature to reform the Metropolitan Council by changing its composition so that a majority of its members are elected officials and by providing for staggered terms for the council’s members who are not elected officials.*

The Metropolitan Council was created to provide for the orderly development of the Twin Cities metropolitan area. It has the responsibility and authority to guide the region’s growth and to provide important regional services. However, the council’s management of growth and, in particular, the coordination and delivery of regional services has changed dramatically. At the same time, the role of counties has evolved. Increasingly, counties have undertaken direct provision of regional services including hazardous and solid waste management, transit funding and transitway development, regional parks, regional highways, water resources planning and watershed management, greenway and bikeway development, farmland and open space preservation, the regional library system, fiber communications networks, and the 800 MHz radio network.

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Everybody supports the concept of a regional approach, and nobody has any wish to abolish the council or diminish the importance of regional collaboration. However, the Metropolitan Council, due to its taxing and policy authority, should be accountable to the residents and taxpayers of the Twin Cities metropolitan area that are impacted by its decisions. It should not operate as a state agency—as it does now—answerable to only one person, the Governor.

To affect the council's transformation, the following five changes should occur:

1. A majority of the members of the Metropolitan Council shall be elected officials, appointed from cities and counties within the region.
2. Metropolitan cities shall directly control the appointment process for city representatives to the Metropolitan Council.
3. Each of the seven metropolitan counties shall directly appoint their own representatives to the Metropolitan Council.
4. The terms of office of any Metropolitan Council members appointed by the Governor shall be staggered and not coterminous with the Governor.
5. The Metropolitan Council shall represent the entire region, therefore voting shall be based on population and incorporate a system of checks and balances.

The best way to ensure that the interests of citizens of the metropolitan area are represented is to have a preponderance of locally elected officials on the council—individuals that do not serve exclusively at the pleasure of the Governor. This will have the added benefit of allowing the council to meet federal guidelines to serve as the region's Metropolitan Planning Organization, a move encouraged by Federal Transit Administration (FTA) and Federal Highway Administration (FHA) to make the council more directly accountable to its public.

### **Repeal the Salary Cap**

***The MICA Board of Directors urges the 2018 Legislature to repeal the salary cap on non-school district local officials' pay to allow cities and counties the opportunity to attract top candidates for upper management and professional positions.***

Minnesota has been unique among the 50 states in having placed a cap on local officials' pay since 1983. The cap, currently 110 percent of the governor's pay adjusted for inflation, has been an impediment to recruitment and retention of top management and a number of professional positions ever since. Several exceptions have been granted to the cap over the years but the process and frequent inaction on those requests have not been a satisfactory option to deal with the problems created by the cap. The Legislature recognized this problem in 1998 when it exempted school districts from the cap. The exemption has not resulted in school district employees' salaries increasing wildly but has allowed them to attract candidates for superintendant positions from other states—something that almost never occurs when county administrator and city manager positions for the state's larger counties and cities are posted. County boards and city councils are answerable to their voters for the compensation that they pay to attract and retain the candidates that will manage their multi-million dollar enterprises. The Legislature needs to remove this impediment to attracting the top talent for our counties' and cities' management and operations and reinstate local control over employee compensation just like it did for school districts in 1998.

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**Eliminate Required Negotiation of Election to Self-Insure Employee Health Benefits**

*The MICA Board of Directors urges the 2018 Legislature to repeal MS 471.617, subd. 4, requiring a local government that wants to self insure employee health benefits to get the agreement of the exclusive representative of its largest union.*

Existing law needlessly hampers local governments trying to reduce employee health care costs by self-insuring. Just as the choice of insurer should be a management or employer decision so should the decision to self insure. Furthermore, the law's current requirement does not even make sense in that the exclusive representative of the largest union frequently does not represent the majority of employees and, in a number of instances, may represent only a small minority of employees. Consequently, the exclusive representative of a minority of employees may frustrate cost savings derived from self-insuring that best serve employees and taxpayers as a whole.

**Oppose Inclusion of 911 Dispatchers and Probations officers in the PERA Correctional Plan**

*The MICA Board of Directors urges the 2018 Legislature not to expand the PERA Correctional Plan, which allows retirement at age 55, to include 911 dispatchers and probation officers*

The PERA Correctional Plan, which includes jail guards and those expected to respond to incidents within correctional facilities, allows its members to retire at age 55 and receive a full pension. Its early retirement benefits are similar to the PERA Police and Fire Plan. In both instances, the plan members are at risk for on-the-job physical injuries due to nature of their clients. No similar hazard exists for probation officer and 911 dispatchers. County workers comp claims and injury reports clearly document this distinction.

Moreover, substantial equity issues exist were such early retirement benefits to be granted. First, the proposal does not cover over 300 Minnesota State Retirement System-covered individuals in similar positions. Parallel early retirement coverage for them would cost the state over \$1.1 million annually. Second, the Legislature would be starting down a slippery slope of the unwarranted granting of early retirement benefits to an expanding group of public employees. If probation officers are granted early retirement benefits, how about public health nurses and social workers, who frequently serve exactly the same households as probation officers?

Expanding the PERA Correctional Plan to probation officers and 911 dispatchers would impose a 21% increase in employer pension costs on cities and counties. Those same employers are potentially facing increased costs for the PERA General and Police and Fire Plans. Compounding those cost increases is not acceptable.

**Limit Any Change in the Break-in-Service Requirement for Reemployed PERA Annuitants to No More than 60 days**

*The MICA Board of Directors urges that any change in the break-in-service requirement for reemployed PERA annuitants be limited to no more than 60 days.*

Current law requires that PERA annuitants must have a break in service of at least 30 days if they become reemployed with a local government while still receiving their pension. If such a circumstance arises, their pension is either offset \$1 for every \$2 for earnings in excess of the social security earnings maximum or suspended, whichever results in a higher pension. The suspended or offset amount is repaid at a later date. The PERA board had considered increasing the break-in-service requirement. Thirty days may not be enough to prevent employees from "gaming" the system by using vacation leave to carry them through the break-in-service period. However, an increase to 60 days would minimize the possibility of planning to intentionally double dip –

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receiving a pension while still collecting a salary – while still allowing county employers to access this valuable pool of experienced employees for filling critical positions if the need arises. No such pension offset or suspension exists for PERA annuitants who become reemployed in the private sector thus already limiting the possibility of local governments reemploying PERA annuitants. So substantially increasing the break-in-service would make local government employers' access to this pool of potential employees even worse.

### **Limit the Amount of Overtime Used to Calculate “High-5” Wages or Salary Used for Pension Determinations**

*The MICA Board of Directors urges the 2018 Legislature to limit the amount of overtime used to calculate the “High-5” wages or salary employed for pension determination to no more than 10% of base salary or wages.*

PERA uses the average of new retirees' highest five years of salary or wages to determine their pension benefit. To boost retirement benefits on occasion individuals nearing retirement will accrue significantly higher amounts of overtime (relative to prior years) to increase their High-5. In many instances, this is facilitated by collective bargaining agreements where overtime can be bid for based on seniority. This practice creates a subsidy from other PERA employees to those who benefit from the higher overtime. The costs have to be recovered through higher contributions from all employees and employers since the actuarial assumptions used to determine contributions cannot capture the costs of these increases in overtime in the last several years before retirement directly from the benefitted individuals. This is unfair to the lion's share of active PERA members who do not have the wherewithal to garner additional overtime at the end of their careers. Limiting overtime as a part of the compensation used to compute the High-5 wage or salary to no more than 10% of base salary or wages would eliminate this problem. Overtime that cannot be included in computation of the High-5 should also not be used to determine employee and employer contributions to PERA.

### **Maintain the Current Definition of Disabled Veterans and the Preference Points Awarded to Them**

*The MICA Board of Directors urges the 2017 Legislature to maintain the current definition of disabled veterans and the preference points awarded to them for competitive promotional examinations.*

Under current law, disabled veterans with a 50% or greater disability rating enjoy a 5-point preference in competitive promotional exams. In addition, disabled veterans also receive preference points on competitive open exams. The existing preference already grants the affected veterans significant advantages over non-disabled veterans and other employees for competitive promotional examinations. Existing law already honors veterans for their sacrifices for our country and does not need to be expanded. Furthermore, expanding the definition of disabled veteran for competitive promotional exams would reduce the preference currently granted to more severely disabled veterans.

### **Eliminate Exclusive Representative's Ability to Unilaterally Elect into the Public Employee Insurance Program**

*The MICA Board of Directors urges the 2018 Legislature to require that all insurance eligible employees, not just the exclusive representative for the members of one bargaining unit, to determine whether or not employees will join PEIP. Further, the Legislature should establish that coverage provided via PEIP should be subject to collective bargaining.*

Current law allows the exclusive representative of any one bargaining unit to elect for its employees to receive health insurance coverage through the state's Public Employee Insurance Program (PEIP) without having to negotiate for the change in health insurance carriers via the collective bargain process. "Adverse selection" is often the result in that the other employees of the local government, who may be older or less healthy, are left behind with the local government's other health insurance carrier, who may either raise premiums or refuse to underwrite the smaller, potentially higher risk group that remains. The exclusive representative of a union that represents only subset of all a local government's employees should not have the unilateral power to affect such a result. Any changes in health insurance carriers must be the subject of collective bargaining that takes into consideration the employer's concern regarding the quality of coverage for all employees as well as the cost to all employees and the taxpayers.

### **Limit Continuation of Employee Health Insurance Coverage to No More than One Ex-Spouse**

*The MICA Board of Directors urges the 2018 Legislature to limit the continuation of employee health insurance coverage to no more than one ex-spouse without payment of additional premiums.*

Current law requires the continuation of group health insurance coverage for ex-spouses until such time that:

- the other spouse's coverage in the employer health insurance plan is terminated, or
- the ex-spouse becomes covered under another group health insurance plan (and/or in the instance where coverage is provided by an HMO when the ex-spouse becomes eligible for Medicare).

Furthermore, in no event shall the amount of premium charged exceed 102% of the cost of the plan for such period of coverage for other similarly situated spouses and dependent children with respect to whom the marital relationship has not dissolved, without regard to whether such cost is paid by the employer or employee.

In some instances, county employers are providing health insurance coverage for as many as three ex-spouses essentially providing coverage for four households for the price of one. This unfairly drives up premium costs for all participants in the group health insurance plan as well as for the employer and their taxpayers. With the Affordable Care Act providing widespread availability of health insurance without the exclusion of preexisting conditions and subsidies for health insurance for moderate-income households, the necessity of the law's current continuation requirements is questionable. Restricting the extent of the continuation of coverage requirement by limiting the continuation of coverage to the most recent ex-spouse would be reasonable as long as coverage for the 2<sup>nd</sup> or 3<sup>rd</sup> prior ex-spouse remains available with payment of an additional premium. This would eliminate other employees and the employer/taxpayers unfairly subsidizing insurance for more than two households as occurs right now.

### **Change Frequency of Pay Equity Reporting**

*The MICA Board of Directors recommends that the 2018 Legislature change the frequency of reporting for pay equity from every three years to every five years.*

Staying in compliance with pay equity and reporting on that compliance is a very time-consuming task for county human resources departments. Every time a new contract is negotiated with a bargaining unit (eight or more bargaining units for a county is not unusual), compliance with pay equity must be analyzed. Since contracts usually have a two or three year term, it may take more than three years to correct noncompliance introduced by contractual changes. Thus, a five-year reporting cycle instead of three would allow for adjustments necessary to bring compensation practices back into compliance.



## **MICA 2018 Legislative Recommendations Public Health**

### **A Strong Local Public Health System Protects the Health and Safety of All Minnesotans**

*The MICA Board of Directors supports the principle that a strong local public health infrastructure is essential in the promotion of a healthy population. To achieve this end, the Board supports sufficient, stable and flexible funding for the provision of required public health activities.*

Protecting and promoting the health of the public is a fundamental responsibility of government at the federal, state and local levels. Minnesota's Local Public Health (LPH) system has long been regarded as one of the strongest in the nation. Efforts to further strengthen LPH have resulted in the development of National Public Health Standards, an accreditation process and a performance management system in Minnesota. These frameworks for improving the system will help support LPH agencies, the first line of defense in our communities. To meet the needs of the citizens it serves, the LPH system requires substantial support from the Legislature. Funding and maintaining essential activities, and supporting a stable public health infrastructure, are critical. Cross-sector approaches are needed to improve health throughout Minnesota. To advance health equity, LPH needs to partner effectively to expand the understanding of health, strengthen the community's capacity to create their own healthy future, and implement a Health-in-all-Policies approach.

### **Increase Funding to the Local Public Health Grant**

*The MICA Board of Directors encourages the Legislature to increase statewide funding for the Local Public Health Grant and provide counties the flexibility to maintain a public health workforce and infrastructure that is able to contain and prevent the spread of communicable diseases and provide the mandated essential services found in Minnesota Statutes, Chapter 145A.*

The Local Public Health (LPH) Grant is consolidated state and federal funding that comes to city and county Community Health Boards (CHBs) for the purpose of maintaining core public health services throughout the state. The funding flows through the Minnesota Department of Health (MDH) and comes with requirements and responsibilities for assuring public health services at the local level found in the Local Public Health Act, Chapter 145A. This grant is an important funding source and must be maintained in order to provide basic protection for the health of the community.

Adequately funding the LPH Grants not only represents the CHBs' key funding source, but it also relieves the local tax levy dollars needed to support public health services. This is one of the top priorities for MICA. The grant is the financial foundation for the statewide local public health system typically used to prevent and control the spread of communicable disease, support home visiting to high-risk families, address environmental health issues, protect public health and promote healthy lifestyles. It is the only state investment that allows flexibility to address community-identified health needs, including unanticipated public health expenses.

In 2015, the Minnesota Legislature increased the LPH Grant by \$1 million per year for the rural CHBs and tribal governments, while funding for metropolitan CHBs was held flat. This was a small step toward fully restoring

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the original cuts to the Grant that occurred in 2003. The need remains to increase the Grant to all CHBs and tribal governments across the state to protect and promote the health of all Minnesotans.

Despite this small increase to rural CHBs in 2015, current spending for local public health is still heavily reliant on local funding. Current spending is derived from the following sources:

- Locally generated funds: 46%
- Federal funds: 40%
- State funds: 14%. Note, the 14% includes the LPH Grant at 7%, plus all other categorical state funding sources, and is inadequate to sustain the system.

The current LPH Grant is \$20.771 million, which represents a per capita expenditure of \$3.94, compared to \$7.25 in 1979 and \$4.76 in 2003.

Research has shown that investments in public health have a measurable effect on preventable deaths. According to one recent study, every 10% increase in public health spending resulted in a 7% decrease in infant mortality and a 3% decrease in heart disease mortality. Without this critical source of funding, local public health programs become more dependent on property taxes and/or program-specific grants that create silos of narrowly-focused services and administrative requirements, creating limitations and inefficiencies in providing services.

Having an adequate foundation will be critical to prepare health departments for future changes, such as population shifts, aging populations, emerging and re-emerging infectious diseases and to update the technology necessary to exchange critical information with key health care partners.

The MICA Board of Directors urges the Legislature to reaffirm the state's commitment to a strong public health system, that is focused and flexible at the local community level, by increasing its statewide investment in Local Public Health to meet basic requirements outlined in statute. MICA further supports Federal prevention dollars flowing directly to the local level, similar to public health emergency preparedness dollars, subject to a designated formula.

### **Provide Stable Funding and Increase Medical Assistance Reimbursements for Family Home Visiting**

*The MICA Board of Directors supports the allocation of stable and sufficient funding for the county-delivered targeted home visiting program and increasing the Medical Assistance (MA) Public Health Nurse Home Visiting reimbursement rate to include all Public Health Nurse home visiting services.*

Home visiting programs address the state's responsibility to provide basic protection, health promotion, positive parenting and support when families are at risk. The Legislature has allocated TANF funding to support public health nurse-led home visiting. However, General Fund allocations from the state specifically directed to targeted home visiting have been eliminated. Base funding from the state's General Fund is essential for supporting effective home visiting programs and creating a foundation for reducing costs to social and correctional services in the future.

In the 2017 legislative session, the MA reimbursement rate was increased to \$140 per visit, closing the gap between the cost of service and reimbursement. However, the new law only covers visits done by a nurse providing services in "evidence-based" programs. Many times, because of staffing and costs, smaller counties cannot afford to provide evidence-based programs but, instead, provide "evidence-informed" home visiting. Increasing the minimum MA reimbursement for family home visits for all home visiting will provide needed resources to maintain and strengthen family home visiting programs across Minnesota and give all communities

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access to services that will impact the negative impacts of poverty and improve outcomes for children of our most at-risk families.

Home visiting, utilizing evidence-based and evidence-informed models for at-risk families, is a proven means of investing in the health and well-being of families, while avoiding high-cost remedial programming required when children are at risk for poor birth outcomes, neglect or abuse. Families who have voluntarily engaged in quality home visiting programs, which include the involvement of Public Health Nurses and the promotion of mental health through social and emotional screening, have shown:

- healthier pregnancies and infant brain development outcomes;
- lower incidents of child abuse or neglect;
- improved school readiness;
- higher employment rates;
- lower public assistance utilization;
- lower need for special education;
- reduced out-of-home placements; and
- reduced interactions with the corrections system.

The benefit of evidence-based and evidence-informed home visiting programs, in human and financial terms, is significant. The MICA Board of Directors supports the allocation of adequate base funding from the state to support high quality, preventive services for at-risk children and increasing the MA reimbursement rate for all Public Health Nurse home visiting.

### **Mental Health and Well-Being**

*The MICA Board urges the Legislature to adopt a Mental Health and Well-Being framework that supports a broader understanding of the concept of "continuum of care." Funding and services need to reflect peoples' conditions, which range from promoting and maintaining mental wellness and stability, to interventions that address severe, persistent mental illness.*

Good mental health is integral to human health and well-being. A person's mental health and many common mental-health issues are shaped by various social, economic, and physical environmental factors operating at different stages of life. There may also be certain genes or brain chemistry that may increase the risk of developing a mental health issue.

Community Health Boards should work to improve the social determinants of health in daily life at all stages: pre-birth; during early childhood; at school age; during family building and working ages; and at older ages - facilitating opportunities both to improve population mental health and to reduce the risk of those mental health issues that are associated with health inequities and disparities. Local Public Health (LPH) should work to increase the awareness and support for Mental Health Promotion across the lifespan.

LPH's role in **Promotion** of mental well-being addresses the determinants of mental health and resilience, which can enhance the protective systems in the community. **Prevention** strategies can work to reduce risk factors like trauma and toxic stress. **Early Intervention** can help to diminish the effects of an identified mental health issue, supporting early access to treatment, and enhance links to natural supports. LPH must also **Assure Health Services** are addressing and improving treatment of identified mental health issues.

The Healthy Minnesota 2020: Emerging Health Narrative notes that "Health is a state of complete physical, mental and social well-being. Being healthy is not merely the absence of disease or infirmity, but about being and doing well. The World Health Organization defines mental health as 'a state of well-being in which every

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individual realizes his or her own potential, can cope with the normal stresses of life, can work productively and fruitfully, and is able to make a contribution to his or her community.’”

The MICA Board of Directors supports:

- a health-in-all-policies approach, to include cross-sector policies that promote mental health;
- expanding awareness about what creates mental well-being and resilience, and the various opportunities to impact them;
- implementing programs focused on increasing mental health awareness and support, such as “Make it OK” and “Mental Health First Aid;”
- building community capacity as a continuous process of expanding leadership, coming together in dialogue to identify shared concerns and solutions, learning together and evaluating the results;
- continued Adverse Childhood Experiences (ACEs) and trauma education; and
- providing resources and support for the continuum of care in Mental Health and Well-Being.

### **Support Statewide Public Health Electronic Data Exchange**

*The MICA Board of Directors supports state and federal funding for the development and implementation of a secure statewide system for exchange of health information between agencies to improve coordination of care. Further, the Minnesota Department of Health (MDH), the Department of Human Services (DHS) and other agencies are urged to better integrate data with Local Public Health (LPH) departments’ electronic health record systems to avoid duplicate data entry, provide more effective care to individuals, and to maintain summary population health data for program evaluation and reporting. Aggregated data within electronic health record systems may be used to identify and plan for population health needs.*

All Minnesota health care providers were required to have interoperable electronic health records by 2015 (Minn. Stat. §62J.495). Local Public Health (LPH) departments must demonstrate progress toward achieving the electronic health records and interoperability requirements by having the technology that enables different information systems and software applications to accurately and effectively communicate, and to securely exchange health data with health care providers for transitions of care and with state agencies for program reporting. There is a need for upgrading the current public health information systems to export and import data for secure health information exchange.

Because it is the responsibility of Public Health to provide leadership and support in population health assessments, staff must have ready access to combined data from many sources and the ability to access data repositories for population health assessments.

Investments in the LPH technical infrastructure will allow improvements across the continuum of care for patients and measuring population-based initiative impacts, such as:

- enabling the secure exchange of client-specific health data between agencies to provide for better integrated care/case management for individuals;
  - facilitating exchange of asthma action plans between medical providers and school nurses needing to treat asthmatic students within the school;
  - improving the ability to monitor and ultimately reduce adverse events in the community; and
  - evaluating consolidated data of hospitals, clinics, Public Health, Human Services, skilled nursing facilities and other regional health providers to measure the burden of disease within a given population.
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Currently, LPH and Human Service departments operate several stand-alone applications that require duplicate data entry or a complex manual transfer of information. Older, limited function applications and separate data sets result in inefficient and costly use of staff time (e.g., data re-entry).

Systems must be upgraded to utilize a common set of technical and language standards for secure local and state data exchange, which have been and continue to be developed by the Standards & Interoperability Framework at the federal level. Counties are committing significant resources, including funding and staff time, for technology and staff development related to the coordination and planning for health information exchange between local and state governments and the private sector.

The MICA Board of Directors supports:

- funding for the upgrading of state and local health and human services systems to allow for data captured at the local agency to be securely exchanged with state agencies for data to be accessible and useful for all;
- providing resources and support for the development and implementation of a statewide electronic, interconnected system for the collection and secure exchange of health data;
- development of policies and standards that are focused and aimed at reducing barriers, enhancing business practices and streamlining processes necessary to achieve statewide interoperability; and
- system capacity to exchange data between agencies to provide for more effective care for individuals.

### **Local Public Health Emergency Planning, Preparedness and Response**

*The MICA Board of Directors supports state and federal funding and policy changes that facilitate Local Public Health emergency planning, preparedness and response activities.*

Although much has been accomplished in public health emergency preparedness, a considerable amount of work remains to be done. The coordination of state and local government with all hospitals, clinics, and other medical entities, including mental health professionals, must continue.

While local governments are taking on public health emergency obligations, federal funding is being reduced, and largely retained at the state level. Local Public Health (LPH) departments now have fully trained staff available to respond to public health emergencies on a 24/7 basis, yet federal funding to support this activity is shrinking and state funding has not been forthcoming. Without ongoing support, these assets will become outdated, and staff will not maintain the skills needed to respond.

The MICA Board of Directors supports the state provision of:

- permanent flexible funding that is a supplement to local and federal funding for the maintenance of LPH emergency planning, capacity building and response activities;
- maintenance of a workforce and infrastructure that is able to respond to public health emergencies; and
- ongoing training for LPH emergency planning, preparedness and response activities.

### **Disease Prevention and Control**

*The MICA Board of Directors supports increased funding and reimbursements to Local Public Health departments for disease prevention and control efforts.*

Minnesota Statutes, chapter 145A, delegates Community Health Boards to control communicable diseases within their jurisdictions. Providing disease prevention efforts, and the containment of infectious diseases, requires a

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dynamic and robust public health system. Ease of world travel, recurring outbreaks and emerging diseases contribute to the increased risk of infectious disease within Minnesota communities.

Immunizations protect children and adults from life-threatening diseases. Each year seems to bring a new outbreak or reoccurring cycle of outbreaks that require Local Public Health (LPH) to respond. Most recently the reemergence of Measles, Tuberculosis and Pertussis have put a strain on LPH agencies. Measles has been eradicated from the Americas, but cases make their way into our country, state and local communities from other places in the world. Outbreaks of infectious diseases routinely appear - requiring LPH agencies to respond with vaccination and other strategies to control disease transmission.

Our global connectedness results in conditions where trips from locations where infectious diseases are widespread can occur in less than 24 hours - increasing the risk of transmission across continents. This ever-changing landscape around infectious diseases, increased investigations, controls and treatment interventions around threats such as Zika virus, Ebola, and Avian Influenza is putting increasing strain on the LPH system and the tax levy support for these services. Inadequate infrastructure and lack of state and federal funding leaves LPH agencies and the medical community with limited capacity to respond to these emerging diseases. Public health interventions are typically not covered by insurance and result in unnecessary costs to counties.

The MICA Board of Directors supports:

- policies around immunizations that are based on science;
- ensuring statewide access to immunizations through state funding;
- providing state and federal funds for all TB-related costs, including the use of telehealth;
- providing flexibility to maintain a public health workforce and infrastructure that is able to contain and prevent the spread of communicable diseases; and
- use of the Public Health Emergency Contingency Fund to offset state and local costs for resource-intensive outbreak situations.

### **Chronic Disease Prevention**

***The MICA Board of Directors urges the Legislature to allow local units of government greater flexibility in the use of state-allocated dollars for Public Health to address local community priorities that address reducing chronic diseases.***

Community Health Boards are required to collaboratively, with their communities, establish local health priorities to be addressed. Frequently, local tax levy dollars are the only flexible dollars available to local units of government to address new and emerging issues or concerns. State dollars that provide greater flexibility help local units of government determine where dollars should be directed to address improving the health of their community, while assisting in making local levy dollars go further. One grant that is helpful but very targeted is the Statewide Health Improvement Program, a grant program which historically focused on policies, systems and environmental changes to reduce chronic illnesses relating specifically to tobacco use and exposure, poor diet and lack of regular physical activity. In 2015, the statute was amended to expand its use to improve the health status of individuals suffering from dementia. While these health issues are important, such specificity removes the ability of local units of government to focus dollars to address other chronic diseases that are of greater community priority than the targeted issues identified. It would be prudent if any limitations on state dollars were removed in order to give local governments the greatest flexibility to be able to respond to their local public health needs and the focus be placed on accountability in use rather than on targeted issues.

The MICA Board requests that the Legislature give flexibility in state allocations to local units of government so that the funds may be used to reflect Local Public Health priorities related to chronic diseases.

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**Establishment of a Medical Assistance Benefit  
for Enhanced Asthma Care Services**

*The MICA Board of Directors supports the establishment of Medical Assistance (MA) coverage for enhanced asthma care services and related products for children with poorly-controlled asthma.*

The Minnesota Department of Health (MDH) estimates that 1 in 16 children through grade 5, as well as one in 10 students in grades 6-12, currently have asthma. There are significant disparities in prevalence by race/ethnicity and geography. Asthma prevalence is higher among African American and American Indian populations; asthma-related hospitalizations and emergency room utilization are greater in the Twin Cities' metropolitan area and Duluth than in Greater Minnesota. Asthma treatment options continue to evolve as research progresses, but it is clear that asthma control improves quality of life, decreases medical expenditures and increases productivity and attendance at school and work.

During the 2015-16 biennium, a collaboration of 17 organizations, made up of Local Public Health (LPH) departments, hospitals, health plans and school nurses, launched an initiative to establish an MA benefit for enhanced asthma care services for children with poorly-controlled asthma.

The proposed legislation focused on children under the age of 21, who had been hospitalized for the treatment of asthma at least once during the previous year, and had been referred for asthma services and products from a treating health care provider. Enhanced benefits provide:

- a home assessment conducted by a healthy homes specialist and/or asthma-trained Public Health Nurse;
- targeted asthma education services; and
- allergen-reducing products.

Asthma interventions that include both education and home environmental assessments, with corresponding allergen-reducing products, produce a strong return on investment, resulting in fewer asthma symptoms, increased school attendance and reduced use of urgent care, ER visits and hospitalizations.

Establishing an MA reimbursement for enhanced asthma care services and products would allow LPH departments to maintain and expand programs that provide in-home assessments, education and products to reduce asthma triggers - thereby helping to ensure that more of our children grow up healthy and ready to learn.

MICA urges the Legislature to enact legislation establishing an MA benefit for enhanced asthma care services.

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## MICA 2018 Environmental Legislative Recommendations

### Environmental Priorities

- **Provide State Reimbursement for the Cost of Water Treatment Systems for Owners of Wells with Contaminated Drinking Water**
- **Allow Other Local Expenditures to Qualify for Required Match for Local Recycling Development Program Grants**
- **Limit Solid Waste Permits to Conditions Established by Rule**

#### **Provide State Reimbursement for the Cost of Water Treatment Systems for Owners of Wells with Contaminated Drinking Water**

*The MICA Board of Directors urges the 2018 Legislature to reimburse owners of wells with contaminated drinking water for the costs of water treatment systems.*

Nitrate contamination is the most common form of groundwater contamination in Minnesota. In 2013, sampling results within one county showed that a third of the wells tested in the study area exceeded the Minnesota Department of Health's (MDH) drinking water standard for nitrate.

Many non-agricultural water users currently pay to treat drinking water that has been contaminated by nitrates and other contaminants. When individual well owners have drinking water that exceeds the Minnesota Department of Health's recommended standards, they may spend several hundred dollars per year to maintain a household water treatment system. Cities with contaminated wells must install and maintain nitrate removal systems at a cost of millions of dollars. In 2008, for example, the city of Hastings was required to install a nitrate treatment system at a cost of approximately \$3.5 million because of high nitrate concentrations in the aquifers serving the city's wells.

The Legislature should authorize the MDH or the Minnesota Department of Agriculture to establish a program to reimburse public and private drinking water well owners through low interest loans, cost share programs or direct funding for the installation and maintenance of water treatment systems to remove nitrates and other contaminants. The program should include verification by a state-certified water testing laboratory that the well has a persistent concentration of contamination from nitrates and other contaminants at levels higher than the applicable MDH drinking water action levels in order to participate in the program.

#### **Allow Other Local Expenditures to Qualify for the Required Match for Local Recycling Development Program Grants**

*The MICA Board of Directors urges the 2018 Legislature to allow any local match to qualify for the required match for local recycling development program grants*

Development of the additional capacity for recycling is critical to the state reaching its goal of recycling 75% of its waste stream by 2030. Yet current law hampers that effort by allowing only a county's expenditure of its

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taxpayers' resources to qualify for the required 50% match needed to qualify for the local recycling development program grants under Minnesota Statutes 473.8441. The Legislature should broaden the sources that qualify for the match by allowing other local resources to also qualify. This will allow leveraging private and nonprofit sector resources to advance the development of additional recycling capacity within the state.

### **Limit Solid Waste Permits to Conditions Established by Rule**

*The MICA Board of Directors urges the 2018 Legislature to require the Pollution Control Agency to promulgate rules to establish conditions for solid waste disposal and management that are currently being done on a permit by permit basis.*

The Pollution Control Agency (PCA) routinely goes beyond the authority granted by rule and statute in establishing the conditions under which individual solid waste management permits are issued and renewed- especially for demolition landfills. The rules and conditions under which permits are granted should be the same for all permittees. If there are other or special conditions or requirements that need to be imposed to protect the environment, those conditions should be identified by rule or statute and not imposed on an ad hoc basis. The agency has authority to revise its rules to address those conditions with adequate public notice and hearings. The Legislature should require the PCA to adhere to that well-established process and not use the permitting process to bypass the administrative rules process to impose additional requirements on solid waste permittees.

### **Change Frequency of Watershed Restoration and Protection Strategy (WRAPs) evaluations under Minnesota Statutes 114D.26 to Once Every 15 Years**

*The MICA Board of Directors urges the 2018 Legislature to change the frequency of Watershed Restoration and Protection Strategy (WRAPs) evaluations to once every 15 years and to provide further funding for the programs that address the impairments identified in the WRAPs.*

Current law requires every major watershed in the state to undergo a Watershed Restoration and Protection Strategy (WRAP) evaluation every 10 years that includes scientific studies of the physical, chemical, and biological assessment of the water quality of the watershed; identification of impairments and water bodies in need of protection; identification of biotic stressors and sources of pollution. The WRAPS then are supposed to lead to plans and studies to respond to the impairments and then implementation of those plans' recommended programs. The actual result is that a lot of money is being invested in the front end of the process but little relative to the need in the back end - actual implementation of projects to address the impairments. The state is nearing completion of its first ten year cycle of studies of all watersheds but the first WRAP was just completed five years ago so there has been little time to implement the programs meant to address the impairments that have been identified. Thus, it should be no surprise that when the next round of WRAPS is completed in ten years that the same impairments that were there in the first round will still be there to the same or greater degree. A more rational schedule and funding policy would slow down the cycle of evaluations or studies and instead give programs meant to address the impairments time to be implemented with an appropriate shift in funding so there will be at least some amount of time that runs to see if those programs are working during the next more timely or longer cycle of WRAP evaluations.

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**Grant Metropolitan Counties that Same Authority as Townships, Cities and Greater Minnesota Counties to Construct, Operate and Maintain Stormwater Facilities under Minnesota Statutes 444.075**

*The MICA Board of Directors urges the 2018 Legislature to grant metropolitan counties the same authority as townships, cities and greater Minnesota counties to construct, operate and maintain stormwater facilities under Minnesota Statutes 444.075.*

Metropolitan counties are finding themselves increasingly involved in stormwater management and facility maintenance as a result of: 1) Stormwater Pollution Prevention Plans requirements imposed by Municipal Separate Storm Sewer System (MS4) permits issued to counties under the federal Clean Water Act and state General Permit requirements; and 2) watershed management responsibilities under Minnesota Statutes 103B when the resulting Watershed Management Organization is county-based rather than municipal-based. Yet they are effectively reliant on special assessments or property taxes, or other local governments to maintain the facilities. Special assessments are cumbersome for these purposes and neither special assessments nor property taxes provide the flexibility to fairly apply the costs to benefited parties and users of the facilities. This can be remedied by granting the metropolitan counties the same authority as greater Minnesota counties have currently under Minnesota Statutes 444.075 to meet their water management obligations.

**Dedicate Solid Waste Management Tax to SCORE and Related Recycling**

*The MICA Board of Directors urges the 2018 Legislature to dedicate the entire solid waste management tax to SCORE grants and related recycling, the uses originally identified by the Legislature when the tax was enacted.*

The solid waste management tax brings in over \$72 million annually to state coffers. Yet, the amount appropriated for SCORE grants is \$17.25 million annually, less than 1/4 the total receipts from the tax. The state and counties are struggling to meet increased recycling goals – 75% by 2030 for metropolitan counties and 35% for greater Minnesota counties- and limit land filling of mixed municipal solid waste. In order to incent higher household recycling, counties are resorting to more expensive single sort at the same time they are replacing aging recycling infrastructure. Additionally, low commodity prices are requiring increased subsidies of recyclers increasing the burden on county property taxpayers who pay for these subsidies in absence of adequate state funding. The Legislature needs to step up and increase the state funding of this function that counties are mandated to provide.

**Restore Funds to the Closed Landfill Investment Fund and the Metropolitan Landfill Contingency Action Trust Account**

*The MICA Board of Directors urges the 2018 Legislature to repay the cumulative \$13.9 million previously transferred out of the Metropolitan Landfill Contingency Action Trust Account (MLCAT) in FY 2004 and 2005 and the \$48 million transferred out of the Closed Landfill Investment Fund (CLIF) in FY 2011.*

Past legislatures transferred \$13.9 million from the Metropolitan Landfill Contingency Action Trust Account (MLCAT) and \$48 million from the Closed Landfill Investment Fund (CLIF) to the state's general fund. These monies were meant to pay for the closure and post closure costs of landfills. Transferring funds from these accounts places a potential future financial burden on the state, and counties or other local government units where landfills are located.

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On June 30, 2004, \$9,905,000—essentially the entire balance of MLCAT—was transferred to the state’s General Fund as part of a budget-balancing initiative. As part of the transfer authorization, the Legislature expressed the intent to restore an equivalent amount to MLCAT at a later date, as revenue becomes available. Further, during FY 2005 the Legislature authorized the transfer of an additional \$4 million from the MLCAT account to the renewable development account. Neither transfer has been returned to MLCAT. The purpose of MLCAT is to ensure that necessary and reasonable care will be adequately funded at metropolitan mixed municipal solid waste disposal facilities including the long-term care of sites that had previously been properly closed. MLCAT will be required to provide post closure care for two of the largest landfills in the state, Pine Bend and Burnsville. In addition, MLCAT funds are now being used to address issues at the Pig’s Eye Landfill in Ramsey County.

Similarly, the 2010 law transferring \$48 million out of the CLIF to the state’s General Fund had express language requiring its repayment over the FY 2014 to FY 2017 period. That required repayment was repealed in 2015 when another \$63.215 million was transferred out of the CLIF to the General Fund. The later has since been repaid. CLIF pays for environment response actions to releases or potential releases of potentially hazardous substances, pollutants or contaminants at landfill facilities that generally closed on or before 1994. Costs for environment response actions for the 112 affected facilities have been over \$432 million through FY 2015 with annual costs running over \$15 million annually. The balance of the CLIF is only about \$65 million so the fund has only enough money to sustain environmental response actions at these closed facilities for about four years if other sources of funding cannot be found. Furthermore, just the clean-up costs for the Freeway Landfill alone could eat up the entire balance of the CLIF.

### **Deposit PCA Fines in the General Fund**

***The MICA Board of Directors urges the 2018 Legislature to deposit fines levied by the Pollution Control Agency in the general fund.***

All money collected by the Pollution Control Agency (PCA) in enforcement actions is currently deposited in the state’s Environmental Fund. Since the Environmental Fund is the primary source of funding for the agency, the dedication of the various penalties that the agency collects to the Environmental Fund creates an incentive to levy more fines. This is counter-productive to efforts to enforce environmental laws and regulations through voluntary compliance. The Legislature should try to minimize the obvious confrontation that the potential of being penalized sets up when an enforcement action is initiated or even when just an investigation is initiated. Depositing the money collected by the Pollution Control Agency (PCA) in enforcement actions into the General Fund would minimize the incentive that exists under current law to levy fines rather than engage in other means to effect compliance with the state’s environmental laws.

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