

# **NEWS FROM THE HILL**

## **"A Legislative Report"**

**By The Legal Services Advocacy Project**

**June 2008**

### **INTRODUCTION**

The budget deficit, health care reform, and the mortgage foreclosure crisis were the primary issues affecting low-income Minnesotans during the 2008 legislative session. In closing a \$935 million budget gap, the Legislature depleted State budget reserves and cut funding for health and human services, higher education, the courts, and state agencies. In addition, the Legislature adopted modest Health Care Reform legislation and made significant policy changes adversely affecting persons with disabilities.

In response to the worst foreclosure crisis since the Depression, the Legislature enacted a package of bills addressing some of the issues facing tenants facing foreclosure and facilitating early intervention by foreclosure prevention counselors. However, one key bill - the Minnesota Subprime Borrower Relief Act of 2008 (the Act) - was vetoed by Governor Pawlenty. The Act could have prevented as many as 12,000 families from losing their homes.

Included in the record number of vetoes the Governor issued this session were an increase to the minimum wage, and two employment provisions regarding Department of Human Services licensing recommended by a committee of lawyers, judges, and advocates.

With respect to immigration, the House and Senate passed legislation prohibiting Minnesota from implementing federal Real ID regulations. (Real ID requires every citizen to carry a US-approved ID card to board airplanes or enter federal facilities.) The Legislature was concerned about the costs, security of personal information, and immigration implications. Governor Pawlenty vetoed that bill, but, faced with a veto override, subsequently issued an executive order prohibiting the Commissioner of Public Safety from implementing Real ID before June 1, 2009, unless authorized by the Legislature.

### **A Note About "Chapters"**

What exactly is a "Chapter"? Every bill that is passed by the Legislature and sent to the Governor is assigned a number by the Secretary of State, called a "Chapter." The numbers are assigned in the order in which the Governor signs or vetoes a bill. They start from the first bill signed at the beginning of the biennium and end with the last bill signed at the close of the biennium. In the 2007-2008 biennium, a total of 370 bills were sent to the Governor.

Under each entry in this summary you will find a notation listing the Chapter number. Listed in parenthesis next to the Chapter number is the bill number. The bill number will have either an HF (for House File) or an SF (for Senate File) in front of it. (Whether the Chapter is associated with a House File or Senate File depends on which body passed the bill first.)

This information is provided to enable you to more easily locate the exact language contained in the bill signed by the Governor. You can find the 2008 Chapters at the following link:

<https://www.revisor.leg.state.mn.us/laws/?view=session&year=2008&type=0>

These Chapters (i.e., the number assigned to each bill that is passed by the Legislature and sent to the Governor) are not to be confused with Chapters found in the actual statute books (the Minnesota Statutes). The statutory chapter numbers comprise a coding system that is used to identify the broad area of law covered (e.g., Public Benefits Law is found in Minnesota Statutes, Chapter 256J and Income Tax Law is found in Minnesota Statutes, Chapter 290).

## **Table of Contents**

**Child Care**

**Consumer**

**Criminal Justice**

**Disability and Mental Health Law**

**Education**

**Elder Law**

**Employment and Training Law**

**Family Law/Domestic Abuse Law**

**Health Law**

- **Increasing Access to Minnesota's Public Health Programs**
- **Increasing Access to Private Coverage**
- **Other Health Care Reform**
- **The Future of Health Care Reform in Minnesota**

**Housing Law**

**Human Rights Law**

**Hunger Issues**

**Public Benefits Law**

**Public Safety Law**

**Tax Law**

**Transportation Law**

**Utilities Law**

**SUMMARY OF MAJOR LEGISLATION  
AFFECTING LOW-INCOME MINNESOTANS**

***CHILD CARE***

**Advisory Task Force**

The Legislature created an Advisory Task Force - made up of counties, parents, providers and advocates - to make recommendations on removing barriers facing families applying for and receiving child care assistance.

*Chapter 361, Article 2, Section 5 (HF 3376)*

***CONSUMER LAW***

**Disclosure on Title of Vehicles Subject to "Lemon Law"**

A new law requires the registrar of motor vehicles to put the phrase "lemon law vehicle" on any car title after the car has been repaired or replaced, or a refund has been given to a car buyer, if the car has been determined to be defective (a "lemon") under Minnesota's so-called "Lemon Law." The designation of "lemon law vehicle" must be clear and conspicuous, and in a color different from all other writing on the certificate of title.

*Chapter 287, Article 1, Section 93 (HF 3486)*

**Do-Not-Call List Changes**

A telephone customer will no longer need to provide notice every four years that the customer wants to be on the State do-not-call list. The customer's name will remain on the list once the first request is made.

*Chapter 363, Article 6, Section 8 (HF 1812)*

**Contract for Deed Transactions**

The Legislature covered more contracts for deed that are subject to an interest rate cap. Now, contracts for deed for up to \$300,000 are covered by the interest rate cap (the old law covered contracts up to \$100,000). Also, the interest rate cap was changed from the usury rate (which is 6% or 8% if the contract is written) to an index that tracks and fluctuates with market.

*Chapter 276, Sections 1 and 5 (SF 2881)*

**Debt Management Services Provider Law**

Two substantive changes were made this year to the law passed last year creating a registration requirement and beefing up consumer protections with respect to debt management service providers. Two new accrediting entities - the Bureau Veritas Certification North America, Inc., and BSI Management Systems America, Inc. - were added to the previous entity as the only ones legally eligible to provide the required accreditation credential to applicants seeking to obtain registration to do business as debt management service providers in Minnesota. Also, Minnesota debt management services providers who were had a licenses prior to August 1, 2007 were exempted from the accreditation requirement.

*Chapter 210 (SF 2930)*

### **Insurance Standards of Conduct Requirements**

A person whose claim is denied and can prove that company had no reasonable basis to deny a claim and that the company knew there was no reasonable basis for denial (or acted in reckless disregard of the lack of basis in denying the claim) can win a damage award in court. The maximum amount that the person can receive is \$250,000.

*Chapter 208 (SF 2822)*

### **Payment of Fees to Credit Reporting Companies to Freeze Credit Reports**

A 2006 law allowing consumers to place a security freeze on their credit report by making a request to a credit reporting agency by mail, phone, or e-mail was updated to make clear that: (1) if the request is made by mail, the fee may be paid by check, money order, or credit card; and (2) if the request is made by e-mail, the fee may be paid by credit card.

*Chapter 211 (SF 1578)*

### **Predatory Lending Law Clarifications**

Tax returns and credit scores (as well as a number of other named documents and factors) were specified as acceptable means to verify the borrower's reasonable ability to repay the loan. *Chapter 241 (SF 3154)*

The following loans were made explicitly allowable under the new predatory lending law: (1) United States Department of Veterans Affairs or United States Department of Housing and Urban Development interest rate reduction refinancing loans or streamline loans; and (2) loans using criteria authorized or promulgated by Fannie Mae or Freddie Mac. *Chapter 276, Section 2 (SF 2881)*

Violation of the obligation that a mortgage broker act in the best interest of the borrower (the broker's "duty of agency") was made subject to legal action by a borrower.

*Chapter 276, Sections 3 and 4 (SF 2881)*

### **Prosecution of Mortgage Fraud**

In 2007, the Legislature created a new crime of mortgage fraud, but prosecutors ran into obstacles in enforcing the new law. Under the changes, prosecutors were given more prosecutorial tools, namely, the explicit permission to prosecute and punish other crimes that are committed at the same time the perpetrator is committing mortgage fraud.

*Chapter 215, Section 2 (SF 2915)*

### **Response to the Mortgage/Foreclosure Crisis**

A package of bills was enacted by the Legislature in an attempt to respond to the epidemic of foreclosures that Minnesota has not seen since the Great Depression.

#### **A. Abandonments and Vacancies**

A new law declares that the failure of a homeowner to appear at a hearing to determine whether the property is abandoned is deemed conclusive evidence of abandonment. The Legislature also gave the right to the lender holding the mortgage or the sheriff's certificate to take actions necessary to prevent the premises from "falling below minimum community standards for public safety and sanitation" and to make reasonable periodic inspections. These new

provisions were added to encourage lenders to use the shortened, five-week redemption period option already available to them under law, and to maintain foreclosed properties while the foreclosure process is underway.

*Chapter 178 (SF 2918) (providing for conclusive proof of abandonment)*

*Chapter 341, Article 5, Section 22 (HF 3420) (taking actions to prevent deterioration of the property)*

#### **B. Foreclosure Data and Reporting**

The Legislature required that lenders include in legal notices that a foreclosure is pending the following information: (1) the physical street address, city, and zip code of the mortgaged premises; (2) the name of : (i) the residential mortgage servicer; (ii) the lender or broker; or (iii) the "transaction agent, which is a third party other than a servicer, lender, or broker (such as the Mortgage Electronic Registry Service or MERS); (3) the tax parcel identification number of the mortgaged premises; (4) if stated on the mortgage, the transaction agent's mortgage identification number; and (5) if stated on the mortgage, the name of the mortgage originator.

In addition, the Legislature established a Statewide Foreclosure Data Collection working group to study the most efficient and cost-effective way to develop and implement an electronic system for the submission, collection, entry, retrieval, management, and assessment of statewide foreclosure data. The group must report to the Legislature on the outcome of the study by February 15, 2009.

*Chapter 238, Article 1 (HF 3516)*

#### **C. Foreclosure Prevention Assistance**

The Legislature raised the amount of assistance that can be provided by the Minnesota Housing Finance Agency under the Mortgage Foreclosure Prevention and Assistance Program from a maximum of \$5,500 per borrower to an indexed amount that, today, is nearly \$11,000 for the Metro area and nearly \$9,500 for Greater Minnesota.

*Chapter 362 (HF 3346)*

#### **D. Foreclosure Prevention Counseling**

A lender must now transmit the borrower's name and contact information to a Minnesota Mortgage Foreclosure Prevention and Assistance agency when a lender sends the borrower a notice of default.

*Chapter 341, Article 5, Sections 6 and 7 (HF 3420)*

#### **E. Foreclosure Process Changes**

One new notice to homeowners in default was required, and one existing notice was revised. They are both aimed to providing information to homeowners about foreclosure prevention counseling. In addition, certain costs associated with the foreclosure process were reduced, established or clarified certain costs associated

with foreclosure. Finally, sheriffs were given the authority to request the current payoff amount and the name of the person or entity with authority to act on behalf of the lender. If the lender does not provide the information in a timely manner, the new law directs the sheriff to postpone the foreclosure sale.

*Chapter 341, Article 5, various sections (HF 3420)*

#### **F. Mortgage Debt Tax Forgiveness**

Any mortgage debt forgiven (as a result of a short sale or other settlement of a mortgage debt between a lender and homeowner) will not have to be reported on state taxes as income.

*Chapter 154, Article 4, Section 2 (HF 3201)*

#### **G. Notice to Cities of Utility Shutoffs**

To provide cities with the opportunity to monitor housing stock in foreclosure to prevent damage or destruction from bursting pipes and other problems associated with abandonment, all utilities will be required to notify the city police and fire departments when a customer's gas or electricity is scheduled for disconnection.

*Chapter 253 (SF 2775)*

#### **H. Tenant Protections**

##### **1. Maintenance/Restoration of Utility Service**

Tenants will now have an easier time keeping or restoring gas, electricity or water when the landlord doesn't pay the bill. They can pay the bill (and in some cases become the customer of record) and all payments to the utilities may be deducted from the rent payments.

For gas and electric service, tenants (in any size building) can pay the most current bill (but not the past due amounts or late charges) and get one additional billing cycle of service. Any tenant in a one-to-four family building has the additional option of taking over the account without any requirement to pay a deposit (so long as the tenant meets the normal requirements to become a new customer).

For water service, cities (which supply all water service in the state) must notify the tenants that the water will be shut off and give them the option to continue to pay the bill and retain the service.

*Chapter 313 (SF 2909)*

##### **2. Mandatory Expungement of Eviction Records**

A tenant will now be entitled to have an eviction removed from the record if the tenant was in a foreclosed property and either moved before the lender took legal possession of the property (i.e., before the end of what is known as "the redemption period") or never got the legally required notice to move.

*Chapter 174 (SF 2910)*

3. Notice to Tenants of their Rights in Foreclosure

Tenants who are in properties that are being foreclosed upon will now receive a notice from the foreclosing lender informing them of their rights as tenants in those circumstances.

*Chapter 341, Article 5, Sections 9 and 11 (HF 3420)*

4. Notice that Property is in Foreclosure

A landlord renting a property will now be required to disclose to a prospective tenant that the home is in foreclosure or the contract for deed is subject to cancellation because of a failure to pay the mortgage. The requirement is waived if lender agrees to honor the lease beyond the end of the redemption period. The same notice by the owner that the property is in foreclosure is required by an owner to a person with whom the owner proposes to enter into a contract for deed.

*Chapter 177, Section 1 (SF 2908)*

5. Notice to Vacate

Tenants who enter into a lease AFTER the sheriff's sale will have the right to receive notice that they must vacate the premises once the lender takes possession. (Under current law, that notice is required to be given only to tenants who leased BEFORE the sheriff's sale.) In addition, now tenants will have two months notice (instead of one) to vacate.

*Chapter 177, Section 3 (SF 2908)*

6. Right to Withhold Last Month's Rent

A tenant leasing a property in foreclosure will now be allowed to withhold the last month's rent without penalty.

*Chapter 177, Section 2 (SF 2908)*

## ***CRIMINAL JUSTICE***

### **Reentry of Offenders**

Business screening services that collect and disseminate individual criminal records will be required to update records within a month of dissemination, and to correct incomplete or inaccurate records, including deleting records that have been sealed. Non-compliance with this provision subjects the business to either a \$1000 fine or actual damages, plus attorney's fees and other costs.

*Chapter 315, Section 19 (SF 3235)*

## ***DISABILITY AND MENTAL HEALTH LAW***

### **Budget Cuts to Community Services for Persons with Disabilities**

Enrollment in home and community-based waiver services for persons with traumatic brain injury (TBI) were limited by the Legislature to 200 persons per year, and services for those eligible for nursing facility care through the Community Alternatives for Disabled Individuals (CADI) waiver were limited to 1,500 persons per year. These cuts

take effect July 1, 2008. Included in these caseload caps are limits for persons participating in the integrated managed care program known as Minnesota Disability Health Option (MnDHO). The total funding cut for these services for the coming three years is nearly \$68 million, which includes the dollar-for-dollar federal match available under Medicaid. It is estimated that more than 2,400 eligible persons will not be able to access these community services over the next three years. Waiver service funding is used to pay staff, buy equipment or items and support people to live as independently as possible in the community and avoid institutional placement.

*Chapter 363, Article 18, Section 3 (HF 1812)*

### **Budget Cuts to State-Funded Grant Programs**

All state-funded grant programs operated by the Department of Human Services and the Department of Health were cut by 1.8%, except children and adult mental health services. Among the programs cut are Semi-Independent Living Services (SILS), Disability Link Line, Family Support Grant services, Region 10 Quality Assurance, and various aging and chemical dependency services.

*Chapter 363, Article 18, Section 3 (HF 1812)*

### **Children's Mental Health Services**

New limitations were placed on restrictive and aversive practices in children's mental health services and facilities.

*Chapter 234, Section 1 (SF 3049)*

### **Community Mental Health Services Report**

The Department of Human Services was required to report by January 16, 2009 on the availability of community mental health services for children, adolescents and adults, including whether mental health facilities should be expanded.

*Chapter 234, Section 5 (SF 3049)*

### **Cost-of-Living Adjustment (COLA) for Community Service Providers**

The Legislature delayed from July 1, 2008 to October 1, 2008 the scheduled 2% COLA adjustment for community service providers.

*Chapter 363, Article 15, Sections 7 and 17 (HF 1812)*

### **Election Improvements for Persons with Disabilities**

A new law: (1) adds to the list of those who can use an agent to submit an absentee ballot; (2) increases the time before an election during which an agent can deliver an absentee ballot to someone who can't get to the polls due to disability or incapacitating health reasons; (3) clarifies agent requirements; and (4) with some exceptions, requires closed captioning or transcripts for political advertisements.

*Chapter 295, Sections 8-10 (HF 3172)*

### **Housing Access Grants**

A new Housing Access Grant Program was established that will provide \$1.25 million in funding over three years for public and private agencies to support individuals with disabilities eligible for publicly-funded home and community-based services.

*Chapter 363, Article 15, Section 5 (HF 1812)*

### **Housing Subsidy for Persons with Disabilities**

The Minnesota Supplemental Aid (MSA) Shelter Needy Program has been expanded to include people eligible for home and community waiver services and people who will use the new self-directed personal supports option, which was passed last session and not yet implemented. This new subsidy of up to \$162 per month per person will begin July 1, 2008, and is estimated to provide nearly \$2 million in housing subsidies over the next three years.

*Chapter 363, Article 15, Section 6 (HF 1812)*

### **Notice of Disability Review for Persons Under 19 Years of Age**

Counties are required to send a notice of disability review to an enrollee in the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) program six months prior (rather than the current requirement of three months prior) to the date that recertification of disability is due.

*Chapter 220 (SF 2024)*

### **Ombudsman's Access to Data**

The Ombudsman for Mental Health and Developmental Disabilities was given access to, and allowed to gather, certain data on behalf of a client. These data include copies of records. The definition of "client" of the Ombudsman was clarified to include a deceased person so that the Ombudsman may receive identifying data about a deceased person

*Chapter 219, Sections 1-4 (SF 3225)*

### **Privacy in Marketing Special Needs Basic Care**

New consumer protections were passed regarding individuals' privacy in marketing of the new Special Needs Basic Care managed care plan for persons with disabilities on Medical Assistance. *Chapter 326, Article 1, Section 38 (HF 3222)*

### **Study on Provider Standards**

The Department of Health and the Department of Human Services must conduct a study of provider standards, which may include licensure, for Personal Care Attendant services and make recommendations to the legislature next February.

*Chapter 230, Section 6 (SF 3227)*

### **Targeted Case Management**

Targeted case management service limits, including relocation service, children and adult mental health, vulnerable adult and child welfare case management, became effective in March 2008, due to federal changes. Federal legislation to stop the federal agency limitations on case management services was passed in Congress in late June and will delay the effective date of the Targeted Case Management regulations until April 1, 2009. Minnesota's targeted case management time lines will now remain in place until April 1, 2009.

*Chapter 363, Article 15, Sections 1-4 and 7 (HF 1812)*

### **Transportation Planning**

The Department of Transportation was required to plan to meet 80% of the unmet need for transportation in Greater Minnesota by 2015 and 90% by 2020.

*Chapter 350, Article 1, Section 67 (HF 3800)*

### **Voluntary Placement for Treatment**

New standards were adopted for the voluntary placement for treatment of children with mental health or developmental disabilities so that parental custody and responsibility for those children is not disrupted. Provisions requiring court oversight of independent living plans for juveniles over 15 years old who are in foster care are included.

*Chapter 361, Article 6 (HF 3376)*

## ***EDUCATION LAW***

### **GED Testing Fees**

Eligible individuals will be able to receive up to \$40 toward the General Education Development (GED) test fee, an increase from \$20.

*Chapter 363, Article 2, Section 15 (HF 1812)*

### **Achievement Gap Task Force**

The Legislature established and funded an advisory task force in 2009 to analyze the educational achievement of low-income students and students of color. The task force will focus on the impacts of coursework, educators' professional development, English language barriers, special education, GRAD tests, and preparation for postsecondary education and career opportunities.

*Chapter 363, Article 2, Section 41, Subdivision 2 (HF 1812)*

## ***ELDER LAW***

### **Older Adult Services Community Consortia**

A three-year demonstration project for Older Adult Services Community Consortia was established. The consortia may consist of health care and social service providers, county agencies, health plan companies, and other community stakeholders. The consortia are intended to accelerate the development of community based services and ensure adequate supply, access, affordability, and quality.

*Chapter 338, Section 3 (HF 3955)*

## ***EMPLOYMENT AND TRAINING LAW***

### **Refugee and Immigrant Collaborative**

Lifetrack Resources in Rochester was provided \$75,000 for an immigrant and refugee work support pilot project. The pilot will focus on job-seeking skills, workplace orientation, functional work English, and on-site job coaching.

*Chapter 363, Article 10, Section 3, Subdivision 4(b) (HF 1812)*

### **Hardship Payments for Select Unemployment Insurance Recipients**

Hardship payments will be available to eligible individuals who suffered economic hardship due to delays of at least four weeks in receiving unemployment benefits due to the new unemployment insurance application and filing system implemented in October 2007.

*Chapter 363, Article 10, Section 30 (HF 1812)*

## ***FAMILY LAW/DOMESTIC ABUSE LAW***

### **Family Law and Child Custody Studies**

A two-phase study of family law was enacted. The first phase will focus on issues related to custody of children; the second phase involves a comprehensive examination of family law.

*Chapter 299, Sections 25 and 26 (HF 2996)*

### **Domestic Abuse**

The Legislature took important steps to protect victims of domestic violence by extending immunity from testimony about information provided by victims to domestic violence advocates, and by providing an extended Order for Protection for victims whose abusers have multiple violations of previous orders.

*Chapter 302 (SF 3441) (extending immunity from testimony)*

*Chapter 316, Section 2 (SF 3492) (providing an extended Order for Protection)*

## ***HEALTH LAW***

*Note: These summaries are based on summaries that were prepared by the Minnesota Department of Human Services.*

### **Community Health Workers/Public Health Nurses**

Medical assistance now covers the care coordination and patient education services provided by a community health worker if worker has at least five years of supervised experience with a dentist, or at least five years of supervised experience by a certified public health nurse operating under the direct authority of an enrolled unit of government. Community health workers may now work under the supervision of a dentist or a certified public health nurse operating under the direct authority of an enrolled unit of government. This law also clarified that care coordination and patient education services include, but are not limited to, services relating to oral health and dental care. This law also expanded coverage by Medical Assistance to the work of certified public health nurses operating under the direct authority of an enrolled unit of government.

*Chapter 326, Article 1, Section 32 (HF 3222)*

### **County-Based Purchasing**

The Department of Human Services must continue to operate single health plan purchasing arrangements with county-based purchasing entities in existence on May 1, 2006, but requires the department to operate single health plan purchasing arrangements

for Medical Assistance and General Assistance Medical Care with county based purchasing entities in existence on March 1, 2008 until December 31, 2010 or upon the effective date of a new contract, whichever is later. The department was authorized the department to consider and approve contracting on a single-health plan basis with other county-based purchasing plans or health plans to serve persons with disabilities. The department is no longer required to provide a report on single-health plan purchasing strategies for special populations.

*Chapter 326, Article 4, Section 1 (HF 3222)*

### **Dental Care**

- The Legislature created a new category of dental providers called an oral health practitioner, to begin providing services on January 1, 2011. An oral health practitioner is allowed to provide certain oral health services if the person meets qualifications established by the new law, works under the supervision of a Minnesota-licensed dentist under a written collaborative management agreement, is licensed by the Board of Dentistry, and complies with board rules. A person practicing under this program must agree to practice in settings serving low-income, uninsured, and underserved patients or in a dental health professional shortage area as determined by the Department of Health.

*Chapter 298, Section 26 (SF2942)*

- An Oral Health Practitioner Workgroup was established to develop recommendations and proposed legislation for the education and regulation of oral health practitioners. The workgroup must report its results to the Legislature by January 15, 2009.

*Chapter 298, Section 29 (SF2942)*

### **Eligibility for Medical Assistance and MinnesotaCare of I-35W Bridge Collapse Survivors**

State payments made to survivors of the I-35W bridge collapse are not counted as income, assets, or resources for purposes of eligibility for MA or MinnesotaCare. Survivors and their families who would otherwise be eligible for and enrolled in health care programs with federal funding are eligible for health care programs paid with state funding.

*Chapter 370, Section 10 (HF 4166)*

### **Exception for Sex Offender Program Residents to Transition to MinnesotaCare**

Residents of the Minnesota Sex Offender Program who are enrolled in General Assistance Medical Care are not required to transition to MinnesotaCare.

*Chapter 326, Article 1, Section 40 (SF 3222)*

### **Health Care Reform**

Health care reform was a hot topic during the 2008 session. At the end of the day, most stakeholders would agree that this year Minnesota took small steps forward toward covering more people and set up a process for more significant reform by 2012. The major areas for reform are as follows:

## *INCREASING ACCESS TO MINNESOTA'S PUBLIC HEALTH PROGRAMS*

### Funding Change Effective July 1, 2008

- *Seamless Coverage for MinnesotaCare Eligible Children*

The Legislature made clear that a child receiving MA who becomes ineligible due to excess income and who has exhausted his or her benefits under Transitional Year Medical Assistance is eligible for seamless coverage between Medical Assistance and MinnesotaCare. These children remain eligible for Medical Assistance for two additional months and are automatically eligible for MinnesotaCare until renewal.

This statutory change has the effect of financing the two additional months of coverage from the Health Care Access Fund. However, the program implementation effective date remains October 1, 2008 or upon federal approval, whichever is later.

*Chapter 358, Article 3, Section 5 (SF 3780)*

*Chapter 286, Article 1, Section 5 (SF 3213)*

### Policy Changes Effective July 1, 2008

- *Application and Renewal Forms*

The Department of Human Services must make state health care program applications and renewals available on its website in the most common foreign languages.

*Chapter 358, Article 3, Section 2 (SF 3780)*

- *Automation and Coordination Study*

The Department of Human Services is required to report to the legislature by January 15, 2009 on ways to improve coordination between Minnesota's Health Care Programs (MHCPs) and social service programs such as WIC and food stamps. The report must include a review of options for the development of automated systems to identify persons served by such programs who may be eligible for MHCPs.

*Chapter 358, Article 3, Section 12 (SF 3780)*

- *Data Matches with Department of Education*

The Department of Education is required to enter into agreement with DHS to share information regarding children eligible for the free and reduced lunch program. This information is to be limited to identifying children who may be eligible for MA or MinnesotaCare.

*Chapter 358, Article 3, Section 1 (SF 3780)*

- *Incentive Program*

The application assistance bonus is increased from \$20 to \$25 and insurance producers licensed under chapter 60K are permitted to receive an application assistance bonus.

*Chapter 358, Article 3, Section 3 (SF 3780)*

- *School Districts*

The outreach requirements for school districts are lessened. Also, the Legislature clarified that school districts are eligible for the application assistance bonus.

*Chapter 358, Article 3, Section 4 (SF 3780)*

Policy Changes Effective January 1, 2009 or upon federal approval whichever is later

- *MinnesotaCare Premium Payment Grace Month*

Nonpayment of premiums will result in disenrollment effective the first day of the calendar month following the month the premium was due. This change allows enrollees an extra month to pay their current premium. It also provides that premiums must be waived for coverage to persons disenrolled for nonpayment who reapply.

*Chapter 358, Article 3, Section 9 (SF 3780)*

- *MinnesotaCare Rolling Eligibility Month*

MinnesotaCare enrollees who fail to submit renewal forms are allowed to remain eligible for an additional month before being disenrolled. The enrollee remains responsible for the MinnesotaCare premium for the additional month.

*Chapter 358, Article 3, Section 8 (SF 3780)*

- *MinnesotaCare Sliding Fee Scale; Monthly Gross Individual or Family Income*

The MinnesotaCare premium structure is revised based on a new affordability scale. The affordability scale is established for individuals and families with gross incomes of 300% of the FPG or less. Children in families with income at or below 150% FPG continue to pay a premium of \$4.

*Chapter 358, Article 3, Section 11 (SF 3780)*

- *Renewal of Eligibility*

MinnesotaCare enrollees who experience no change in circumstances are allowed to submit renewal forms to designated locations including community clinics and health care providers' offices. The Department of Human Services is authorized to establish criteria and timelines for sites to forward applications to the department or to county agencies.

*Chapter 358, Article 3, Section 8 (SF 3780)*

Change Effective July 1, 2009

- *MinnesotaCare Single Adults and Households with No Children*

The MinnesotaCare income limit is increased for adults without children from 200% to 250% of FPG.

*Chapter 358, Article 3, section 7 (SF 3780)*

## *INCREASING ACCESS TO PRIVATE COVERAGE*

### Section 125 Plans

Employers with 11 or more full time employees are required by July 1, 2009 to establish 125 Plans to allow employees to purchase health coverage with pre-tax dollars.

Employers do not have to offer or purchase group health insurance for employees.

Employers who are exempt from this requirement are those:

- with no employees who are eligible to participate in a Section 125 Plan;
- who are self-insured under 62E.02;
- those who offer a group health insurance plan under 62A.011.
- An employer is allowed to opt out of the requirement under certain circumstances.  
*Chapter 358, Article 4, Section 10 (SF 3780)*

## *OTHER HEALTH CARE REFORM*

### Health Care Homes

The Department of Human Services and Department of Health are authorized to develop and implement health care homes. The Department of Human Services is to encourage state health care program enrollees who have complex or chronic conditions to select a primary care clinic with clinicians who have been certified as health care homes. More specifically:

- The Department of Human Services and the Department of Health must:
  - by July 1, 2009, develop standards of certification for health care homes. The statute details issues the standards must address and requires consideration of existing standards developed by national independent organizations;
  - when developing the standards, consult national and local organizations working on health care home models and other interested and knowledgeable individuals. This requirement may be met by continuing the provider directed care coordination advisory committee;
  - establish process, outcomes and quality standards that health care homes must meet;
  - develop a payment system by January 1, 2010 that provides per-person care coordination payments to health care homes for providing care coordination services;
  - establish a health care home collaborative; and
  - report to the Legislature each year beginning on December 15, 2009, on implementation and administration of the health care home model.
- The Department of Human Services:
  - must develop criteria for either a personal clinician or primary care clinic to be certified as a health care home; and
  - is allowed to operate and develop alternative medical or health care home projects.

*Chapter 358, Article 2, Sections 1 & 2 (SF 3780)*

## *THE FUTURE OF HEALTH CARE REFORM IN MINNESOTA*

The legislature established a process and many activities that will be undertaken during the years 2008-2012 to move Minnesota towards health care reform. Most of the activities will be lead by either the Department of Human Services or the Department of Health, with regular reports to the Legislature on the status of the activities. A new group, the Health Care Reform Review Council, was also formed to oversee the implementation of health care reform.

In addition to health care homes certification and Section 125 Plans, other important aspects of the reform bill include:

- A requirement that a study of health care coverage for employees in long-term care facilities and a study of workforce shortages be conducted.
- The establishment of a plan for payment reform to reduce health care costs and improve quality;
- The establishment of uniform definitions for provider pricing for baskets of services;
- The direction to convene a work group to recommend an essential benefit set design;
- The establishment of a Statewide health improvement program to address issues of obesity and tobacco use;
- Development of an affordability proposal for those employees with incomes less than 300% of the federal poverty guideline;
- Establishment of an electronic prescription drug program to be used by providers.

*Chapter 358, Articles 2 and 4 (SF 3780)*

(To find a detailed list of health care reform topics and timeline go to the Minnesota Hospital Association's Web site at: <http://www.mnhospitals.org/inc/data/pdfs/Starting-the-Health-Care-Reform-Journey.pdf>).

### **Hospital Inpatient and Outpatient Rate Reduction**

With certain exclusions for mental health services, the Legislature cut in-patient and outpatient hospital payment rates for General Assistance Medical Care and Medical Assistance, most of which would have been matched with federal Medicaid funds over the next three years. Mental health services and the Indian Health Service are excluded from these rate reductions.

*Chapter 363, Article 17, Sections 6 and 13 (HF 1812)*

### **Language Assistance for Managed Care Enrollees**

Requires managed care organizations under contract for Medical Assistance, General Assistance Medical Care and MinnesotaCare to provide language assistance to enrollees that assures meaningful access to programs and services.

*Chapter 326, Article 1, Section 37 (SF 3222)*

### **Long-Term Care Partnership Program**

The requirement that participants in the long-term care partnership program exhaust all benefits under the policy before designating assets to be disregarded for Medical Assistance (MA) and exempted from estate recovery was eliminated.

*Chapter 363, Article 17, Sections 7 and 8 (HF 1812)*

### **Long Term Care Services**

Many changes, clarifications and technical amendments were made to the statutes relating to the eligibility for Medical Assistance payment of long term care services.

Some of the topics include:

- Treatment of the homestead
- Treatment of life estates and annuities
- Uncompensated Transfers

*Chapter 326, Article 1 Sections 8-12 and 19-28 (SF 3222)*

### **Managed Care Plan Data**

Data submitted to the Department of Human Services regarding contracts and provider payment rates is classified as non-public data.

*Chapter 364, Article 1, Section 1 (SF 3322)*

### **Medical Assistance (MA) Co-Payment Limit**

MA monthly co-payments on prescription drugs and non-emergency visits to the emergency room are limited to 5% of family income for persons with income at or below 100% of the federal poverty guidelines. This requirement applies to the co-payments on nonemergency visits to a hospital emergency room and prescription drugs that will be in effect on January 1, 2009. Until that date, co-payments on nonpreventive visits and eyeglasses apply, and co-payments are not subject to a 5% limit.

*Chapter 363, Article 17, Sections 10 and 11 (HF 1812)*

### **MinnesotaCare Renewals**

The Legislature clarified MinnesotaCare enrollees who are members of the military or their families must submit renewals annually instead of every six months.

*Chapter 286, Article 1, Section 10 (SF 3213)*

### **Ombudsman for Managed Care Study**

The Department of Human Services was directed to study, and make a report, with recommendations, to the legislature by January 15, 2009, on whether the duties of the ombudsman should be expanded to include advocating on behalf of public health care program fee-for-service enrollees.

*Chapter 364, Section 13 (SF 3322)*

### **Report on Financial Management of Health Care Programs**

The Department of Human Services was directed to provide to the Legislature, by January 15, 2009: (1) a status report on implementation of the cost containment

strategies identified in the 2005 "Strategies for Savings" report; (2) a description of, and an explanation of recent differences between, Medical Assistance managed care revenue targets and actual revenues; (3) the adequacy of public health care program fee-for-service rates, and recommendations to increase rates as needed to eliminate identified access problems; and (4) a progress report on requiring payments for physician and professional services to be based on Medicare relative value units.

*Chapter 364, Section 11 (SF 3322)*

## ***HOUSING LAW***

### **Long-Term Homeless Supportive Services**

The Legislature appropriated \$505,000 in 2009 for programming to address ending long-term homelessness.

*Chapter 363, Article 18, Section 3 (Subdivision 4(i)) (HF 1812)*

### **Manufactured Home Owner Protections**

To help manufactured home owners avoid repossession and to protect them from predatory lending practices, the following changes were made.

#### Repossessions

- The period from 30 to 60 days within which a manufactured home owner in default on a loan can make up missed payments and avoid repossession of the home.
- Two plain language notices to inform manufactured home owners of their right to reinstate the loan were created and required.

#### Predatory Lending Protections

- The following predatory lending practices were made illegal: (1) charging a fee for a service that is not provided; (2) false or misleading statements or advertising; (3) stating that a loan is conditionally approved without indicating clearly that final approval is not guaranteed; (4) making a loan without verifying the borrower's reasonable ability to repay the loan; (5) charging a higher interest rate than the rate for which the borrower qualifies; (6) refinancing a "special loan" (i.e., a loan made state, tribal, or local government, or nonprofit organization that is forgivable or has favorable terms such as a below-market interest rate); (7) repeated refinancing (called "churning"); and (8) making a loan where the monthly payments are not even large enough to cover the interest.
- The percentage of fees that can be financed into the loan were capped at: (1) 5% of the loan amount for loans of more than \$60,000; (2) 6% of the loan amount for loans of between \$40,000 and \$60,000; and (3) 8% of the loan amount for loans of less than \$40,000
- Prepayment penalties are limited to only those where there is some benefit to the borrower.
- An obligation of an independent loan broker to act in the best interest of the borrower (a "duty of agency") was established.

*Chapter 273 (SF 3477)*

## ***HUMAN RIGHTS LAW***

### **Increased Punitive Damage Award Cap for Violations of Minnesota Human Rights Act**

The cap on punitive damages that may be awarded for violations of the Minnesota Human Rights Act, whether committed by a private offender or a political subdivision, was increased from \$8,500 to \$25,000.

*Chapter 215, Section 1 (SF 2915)*

## ***HUNGER ISSUES***

### **Funding for Food Shelves**

An additional \$500,000 was appropriated to the State's food shelves.

*Chapter 363, Article 18, Section 3, Subdivision 4(i) (HF 1812)*

## ***PUBLIC BENEFITS LAW***

### **Delay in \$75 Work Participation Bonus**

Implementation of the \$75 work participation bonus was delayed from February 2008 to October 2009. (Under the bonus program, participants who exit the Minnesota Family Investment Program [MFIP] and continue to work a certain number of hours receive a \$75 per month cash payment for 24 months.)

*Chapter 363, Article 16, Section 5 (HF 1812)*

### **Eligibility for Public Assistance for I-35W Bridge Collapse Survivors**

State payments made to survivors of the I-35W bridge collapse are not counted as income, assets, or resources for purposes of eligibility for General Assistance or MFIP.

*Chapter 370, Section 10 (HF 4166)*

### **Supported Work**

The Legislature appropriated \$7.1 million in 2009 and \$7.1 million in 2010 for paid supported work experiences for MFIP participants. Experiences are required to provide a continuum of employment assistance (including outreach and recruitment), program orientation and intake, testing and assessment, job development and marketing, pre-worksite training, supported worksite experience, job coaching, and post-placement follow-up, in addition to extensive case management and referral services.

*Chapter 363, Article 18, Section 3, Subdivision 4(b) (HF 1812)*

### **Emergency Cash Assistance and County Residency**

State law allows a person to receive emergency cash assistance if the person has resided in Minnesota for 30 consecutive days with the intention of making a home in Minnesota. This new law prevents counties from imposing county residency requirements on eligible persons seeking emergency cash assistance.

*Chapter 361, Article 1, Section 4 (HF 3376)*

### **Delayed Simplified Reporting for Food Stamps**

Implementation of simplified reporting requirements for food stamps allowing food stamp participants not enrolled in MFIP to file food stamp paperwork once every six months rather than monthly were delayed from May 2008 until March 2009.

*Chapter 361, Article 5, Section 3 (HF 3376)*

## ***PUBLIC SAFETY LAW***

### **Reinstatement of Driver's License Fees**

A person must pay reinstatement fees and surcharges totaling \$685 if the person's license is revoked as a result of: (1) failure to submit to a breathalyzer test; (2) a DWI conviction, or (3) commission of criminal vehicular homicide (or criminal infliction of injury while operator a vehicle). Beginning July 1, 2009, drivers who are certified by a court as financially eligible for a public defender can pay 50% of the fees and get a two-year license, and pay the other half and extend the license an additional two years. After that, license renewal would be at the regular rate. However, if the license is cancelled, revoked or suspended before the full amount is paid, the driver would need to pay whatever balance is remaining on the full amount if the driver wants the license reinstated.

*Chapter 152, Article 6, Section 6 (HF 2800)*

## ***TAX LAW***

### **Motor Fuels Tax Credit for Low-Income Consumers**

Beginning in 2010 (and applicable for the 2009 tax year), lower-income taxpayers are eligible for a \$25 tax credit. (Lower-income married individuals filing separate returns are eligible for a tax credit of \$12.50.) This credit was established to recognize the impact of the increase in the gas tax on lower-income taxpayers. The credit is available regardless of whether the taxpayer drives or even owns a car.

*Chapter 152, Article 3, Section 2 (HF 2800)*

### **Revenue Recapture**

Under revenue recapture, the Department of Revenue intercepts state tax refunds to pay certain debts. The Legislature added to the list of debts that can be intercepted debts for local units of government and Minnesota state colleges and universities. Also, if a debt is referred to the State for recapture, notice must be given to the debtor personally or by first class mail before recapture can be used.

*Chapter 366, Article 16, Sections 2-4 (HF 3149)*

### **Tax Assistance Grants**

A one-time appropriation of \$100,000 was made to the Minnesota Department of Revenue to make grants to nonprofit organizations to increase the availability of taxpayer assistance services after April 15, to assist homeowners in filing claims for the property tax refund, and to increase participation in the program.

*Chapter 366, Article 1, Section 2 (HF 3149)*

## ***TRANSPORTATION LAW***

### **Right to Retrieve Personal Belongings from Towed Vehicles**

Registered vehicle owners were given the right to retrieve, at no charge, their personal belongings from a towed vehicle if they can provide any form of documentation that they are homeless, receive some sort of public benefit (e.g., MFIP, emergency assistance, energy assistance, Food Stamps), are eligible for legal aid services, or have a household income at or below 50% of state median income. These vehicle owners can get all their belongings even if they do not pay the towing and storage charges.

*Chapter 350, Article 1, Sections 19 - 24 (HF 3800)*

## ***UTILITIES LAW***

### **Cable Competition Study**

The Minnesota Department of Commerce was directed to contract with the University of Minnesota to conduct a study of three other states that have allowed competition in the cable industry (including the provision of Internet service) that allows competitors to operate on different terms than the existing cable franchise. To address concerns that such uneven competition could result in certain population segments going unserved, associations representing communities of color must be consulted. A report on the study's findings must be submitted to the Legislature by February 1, 2009.

*Chapter 296, Article 1, Section 29 (SF 3337)*

### **Cold Weather Rule**

Investor-owned utilities (like Xcel and CenterPoint) are now required to make reasonable efforts to restore service within 24 hours when a customer enters into payment agreements under the Cold Weather Rule. Also, the requirement that utilities must take into account a low-income customer's financial situation and any other extenuating circumstances when setting a payment agreement amount was extended to non-low income customers.

*Chapter 162, Sections 2 and 3 (HF 3368)*

### **Payment Agreements During Non-Cold Weather Periods**

Under the Cold Weather Rule (effective October 15 through April 15), all utilities are required to offer payment agreements to customers in arrears that take into account the customer's financial situation and any other extenuating circumstance. The requirement that utilities must consider the financial circumstances of customers when entering into payment agreements was extended to apply year round.

*Chapter 162, Section 4 (HF 3368)*