

BAM SESSION REPORT 2023



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IT WAS A CONSEQUENTIAL SESSION

The 2023 Legislative Budget Session that began on January 3rd and ended on May 22nd was consequential. It was also historic. Leading up to session, Democrats achieved stunning midterm electoral success amidst economic and political headwinds. Governor Walz handily won re-election. House Democrats maintained their narrow 70-64 majority and Senate Democrats took a 34-33 razor-thin majority. For the first time in 10 years, one party held the “trifecta” ending gridlock and unleashing a torrent of DFL-enacted priorities.

Winning the majority means holding the committee gavels, which also means controlling the legislative agenda. Conventional wisdom that predicted a slow start to session was quickly dispelled when Democrats passed above-the-fold newsworthy policy priorities including the PRO Act codifying abortion rights and a 100% Carbon-Free Standard by 2040. Budget sessions are often described as a marathon, but this year it was a sprint. By the May 22nd constitutional deadline, a massive \$71.5B budget was on its way to the Governor, as were most of the DFL trifecta’s top priorities including:

- **Free School Meals:** Free meals for all K-12 students, regardless of income;
- **Free Tuition:** Free college tuition for families earning under \$80K;
- **Cannabis Legalized:** Recreational marijuana legalized;
- **Guns Regulated:** Universal background checks and “red flag” laws enacted;
- **Paid Leave:** Paid Family and Medical Leave up to 20 weeks;
- **Sick Leave:** Paid Sick and Safe Time Leave up to 48 hours;
- **PFAS Regulation:** PFAS “forever chemicals” phased-out by 2025;
- **Bonding Package:** \$2.6B in bonding construction projects;
- **Tax Relief:** \$3B in targeted tax relief including “Walz-Checks” for joint filers under \$150K; social security income tax elimination for those making up to \$100K, and reduced for couples earning up to \$140K; and low-income child tax credits of \$1,750 per child to households making \$35K per year, gradually phasing-out on incomes up to \$96K, depending upon filing status and number of children.


Republicans decried the resulting mandates, and tax and spending increases, citing an historic \$17.5B budget surplus. They urged Democrats to return the surplus to taxpayers and pass a budget without tax increases. Instead, the new state budget increased from \$51.6B to \$71.5B for FY24-25 — a 40% increase in spending. Of that spending, \$66B continues into the next biennium. Republican leaders railed against but could not stop the resulting \$1B in general fund tax hikes, \$1.48B in transportation tax increases, and \$1B in payroll taxes to pay for the new Paid Family and Medical Leave program.

BAM members, the construction industry overall, and the broader business community will be impacted by laws enacted this session. While BAM appreciates

legislative action that invests more one-time and ongoing dollars for building and maintaining affordable housing, we believe an opportunity was missed to make progress on addressing housing affordability through meaningful regulatory reform. Reducing residential building costs by eliminating unnecessary development mandates and fees will improve housing affordability and lead to more units available. This will put downward pressure on prices, creating a positive feedback loop in the marketplace to help address MN's dismal housing cost and availability crises.

BAM successfully advocated for construction workforce priorities in higher education, and helped pass the bold First-Generation Homebuyers Downpayment Assistance Program. BAM also joined industry and business allies in opposing costly and burdensome employer mandates now signed into law including Wage Theft Protection, Paid Family Medical Leave, and Paid Sick and Safe Time. We anticipate a need to fix or clarify aspects of these well-intentioned but cumbersome employer mandates in upcoming sessions. We look forward to that work seeking to strike a balance between employee and employer needs. The next legislative session is scheduled to begin on February 12, 2024.

WHAT YOU NEED TO KNOW

Reference the following report for information and analysis of new laws impacting our members. Links to more detailed information is also available via  [blue links](#) provided throughout the report:

HIGHER EDUCATION

The Higher Education Omnibus Bill (HF2073 - Law Chapter 41) was authored by Chair Rep. Gene Pelowski (D - Winona) and Chair Sen. Omar Fateh (D - Mpls.). It includes \$650M in increased investments for MnSCU and the U of M, including free tuition for students from families earning less than \$80K a year. BAM appreciates progress made to help address construction workforce needs as well:

■ **Construction Careers Now Eligible For Workforce Scholarships** — A top BAM lobbying priority, introduced last session and magnified in our 2023 BAM Lobby Day, we want to thank Higher Ed Chairs as well as Senator Arik Putnam (D - St. Cloud) and Representative Dan Wolgamott (D - St. Cloud) for their leadership in passing legislation that makes construction careers now an eligible field of study for coveted Workforce Scholarships in higher education. The scholarship is funded at \$9M for the biennium. We want to also thank BAM Secretary and BUILDPAC Trustee Steve Noble for his expert testimony before the Senate Higher Education Committee. BAM supports

solutions that increase opportunities in education that promote construction careers and help build tomorrow's workforce.

 [Higher Ed Chapter 41: Construction Careers Art 1, Sec 3e; Art 2, Sec 27](#)

HOUSING

The Housing Omnibus Bill (HF2335 - Law Chapter 37) was authored by Chair Rep. Mike Howard (D - Richfield) and Chair Sen. Lindsey Port (D - Burnsville). It includes over \$1B in new investments for affordable housing, and a .25% metro sales tax increase (50% will be dedicated to metro county aid, 25% to metro city aid, and 25% to statewide rental assistance). Also included are provisions directly relevant to BAM such as:

■ **First-Generation Homebuyers Downpayment Assistance Available** — A top BAM lobbying priority, it will create and move new housing units in the marketplace and help reduce the homeownership gap. We want to thank Senator Oumou Verbeten (D - St. Paul) and Representative Agbaje (D - Minneapolis) for authoring the legislation. We want to also thank the MN Realtors for their leadership on the initiative. The law includes two parts: 1) \$50M available for people earning up to 115% of statewide or the Average Median Income, up to \$35K per household (stackable with other incentives); 2) \$100M available for people earning up to 100% the Average Median Income, up to \$32K per household.

 [Housing Chapter 37: First-Generation Art 1, Sec 2 \(19-20\); Art 2, Sec 3, 9](#)

■ **Greater MN Housing Infrastructure Grants Funded (\$5M)** — MHFA may make grants to cities to provide up to 50% of the capital costs of public infrastructure for an eligible workforce housing development project. A single city is capped at receiving \$500K in two years, and limited to single-family, duplex, triplex, or fourplex housing developed and no more than \$180K per lot for multifamily housing with more than four units per building. BAM supports legislation like this, acknowledging the significant up-front infrastructure costs that make building housing affordably so challenging.

 [Housing Chapter 37: Greater MN Grants Art 1, Sec 2 \(22\); Art 2, Sec 7](#)

■ **First-Time Homebuyer, Fee-Based Home Purchasing Pilot (\$10M)** — This is a financing pilot program where funds will be used to provide forgivable downpayment

assistance grants to homebuyers not to exceed 30% of the price of the eligible property. The pilot is under the administration of NeighborWorks Home Partners. Eligibility includes income at or below 130% of Area Median Income for those who reside in a census tract where at least 60% is renter-occupied, based on the most recent estimates or experimental estimates provided by the American Community Survey of the United States Census Bureau.

 [Housing Chapter 37: Fee-Based Pilot Art 1, Sec 2 \(28\); Art 2 Sec 12](#)

■ **Lead Safe Home Grants Available (\$4M)** — BAM believes this grant program is a step in the right direction by funding remediation of lead health hazards, and benefiting low-income residents disproportionately affected by unmitigated older housing stock. For multifamily rental properties, at least 50% of the tenants must have an income at or below 60% of the Area Median Income.

 [Housing Chapter 37: Art 1, Sec 2 \(26\); Art 2, Sec 5](#)

JOBS & CONSTRUCTION

The Jobs Omnibus Bill (SF3035 - Law Chapter 53) was authored by Chair Rep. Hassan (D - Mpls.) and Chair Sen. Champion (D - Mpls.). At \$1B in funding, it includes millions in state matching dollars to draw down federal funds to invest in industries such as aerospace and semiconductors. It also invests in programs that reduce economic disparities and address workforce shortages. There are significant policy changes including construction indemnity “duty to defend” for public projects and an onerous residential construction wage theft protection law BAM and industry that allies fought all session:

■ **Residential Construction Wage Theft Liability Shifted** — BAM joined industry allies in vehement opposition to this unreasonable wage theft protections bill that unfairly shifts liability to general contractors and project owners for policing and paying for alleged lost wages. Under this new law, GC’s and project owners would have to pay workers’ alleged unpaid wages then attempt to recover the money from the alleged subcontractor via legal action. Union contractors are exempt from this new law which is effective August 1, 2023.

BAM expects DLI to provide an official update to their 2019 wage theft brief on their website. In their 2023 legislative summary, DLI describes it as “*DLI Construction Worker Wage Protection Act (CWWPA)*. *The CWWPA states that a contractor entering a construction contract assumes liability for unpaid wages, fringe benefits and liquidated*

damages owed to a claimant by a subcontractor of any tier. This allows DLI to seek unpaid wages and liquidated damages owed to an employee from a contractor. DLI has enforcement authority. Effective Aug. 1, 2023.”

Additionally, there is language in the law meant to exempt small builders, but it is ambiguous. For reference, the language states: *Construction contract “means a written or oral agreement for the construction, reconstruction, erection, alteration, remodeling, repairing, maintenance, moving, or demolition of any building, structure, or improvement, or relating to the excavation of or development or improvement to land. For purposes of this section, a construction contract shall not include a home improvement contract for the performance of a home improvement between a home improvement contractor and the owner of an owner-occupied dwelling, and a home construction contract for one- or two-family dwelling units except where such contract or contracts results in the construction of more than ten one- or two-family owner-occupied dwellings at one project site annually.”*

BAM will be releasing a brief from legal counsel imminently to serve as a resource for members who have questions about this law and its impacts.

 [Jobs Chapter 53: Wage Theft Art 10](#)

 [BAM Wage Theft Mandate: Opposition Letter to Committee](#)

■ **MNOSHA Federal Conformity, Penalties Increased** — MN lawmakers passed legislation that conforms with federal OSHA penalty increase levels. Willful and repeat violations are increased to a maximum of \$156K for each violation. Penalties for other violations are increased to a maximum of \$15K for each violation. Penalty increases in the future will be tied to inflation.

 [Jobs Chapter 53: MNOSHA Federal Conformity Art 1, Sec 15-20](#)

 [DLI 2023 Legislative Summary](#)

■ **Residential Code Changes Stopped** — BAM joined industry allies in removing all residential energy code language changes that would have expanded the DLI Commissioner’s ability to unilaterally make changes to the residential building code in the name of climate goals. DLI describes the remaining commercial code changes as “Effective July 1, 2023. Adds additional targets to the adoption of new model commercial energy codes such that the commercial energy code in effect in 2036 and thereafter achieves at least an 80% reduction in annual net energy consumption, using the ASHRAE 90.1-2004 as a baseline. This change also requires a report by Jan. 15 of the year following each new code adoption. (Article 1, Section 29; based on standalone bill HF772/SF1368 (Kraft/Port)).” Next session alert: we anticipate a robust effort by

advocates in the 2024 session to advance increased requirements to the residential energy code.

[Jobs Chapter 53: Commercial Codes Art 1, Sec 29](#)

■ **Codes For Commercial & Multifamily, EV-Ready** — While these changes do not affect single family residential with fewer than four units, there are new code requirements for commercial and multifamily that a minimum of EV-ready spaces and charging stations be made available. We anticipate discussion next session to extend a similar type of requirement to single-family residential development.

[Jobs Chapter 53: EV-Ready Codes Art Art 1, Sec 24-28; 31](#)

[Jobs Bill: DLI CCLD Summer Review](#)

■ **Payout Retroactivity Removed From Contractor Recovery Fund** — BAM members are proud of the builder-funded consumer protection role the Contractor Recovery Fund (CRF) provides. Over the years we have worked with DLI to protect the integrity of the fund from raids, and to ensure the dollars are available to deserving homeowners in rare cases of contractor fraud. Legislation was advanced and defeated this session that would have allowed for homeowners utilizing *unlicensed* contractors to dip into the CRF, retroactively, to pay for rooftop solar fraud. Instead, solar installer licensure is now required, and we appreciate DLI's leadership on this. DLI summarizes the change as: "Solar installers licensed as residential building contractors – effective July 1, 2023. Requires that solar installers be licensed residential building contractors, resulting in solar installers paying into the Contractor Recovery Fund and giving consumers who hire licensed solar installers the ability to make claims to the fund. (Article 1, Section 32; based on standalone bill HF2164/SF2735 (Kraft/McEwen))."

[Jobs Chapter 53: Solar CRF Art 1, Sec 32](#)

■ **Rental Prohibition For Single Family Residential Stopped** — Lawmakers in select population centers have been hearing from constituents about out-of-state corporate interests purchasing large numbers of existing residential homes and converting them into rental properties. Early in session SF365 (Bolden) / HF685 (Agbaje) was introduced and would have been a one-size-fits-all prohibition of converting single family residential homes to rentals. We appreciate the authors for amending then pulling the legislation for this session as it would have resulted in unintended consequences. Sometimes small builders need flexibility to convert a single-family project to rental in cases of unexpected market shifts, and without such flexibility many new single-family housing units may not even get built. We also want to thank BAM member Rick Dold (RAB) for

his expertise helping BAM navigate the nuances of the issue. We expect it to surface again in the 2024 session.

[SF365/HF685 Rental Prohibition For Single Family Residential - Stopped](#)

■ **House-Flipper Exemption Tightened** — DLI advanced a provision that passed into law clarifying residential building contractor licensing exemptions “to enhance consumer protection with respect to house flippers (Section 53), effective July 1, 2023.”

[Jobs Chapter 53: House-Flipper Exemption Tightened Art 11, Sec 53](#)

■ **Emerging Developer Fund Created (\$5M)** — This program is meant to help a “new or smaller developer” who is either a minority, woman, person with a disability or is low-income. The fund will be administered by DEED through partner organizations via grants and zero-interest loans for predevelopment costs “to transform neighborhoods statewide and promote economic development and the creation and retention of jobs in Minnesota. The program must also reduce racial and socioeconomic disparities by growing the financial capacity of emerging developers.”

[Jobs Chapter 53: Emerging Developer Art 15, Sec 16; Art 20, Sec 2](#)

EMPLOYMENT LAW

Several employer mandates passed into law this session, over strenuous objections from the broader business community. Please draw your attention to the following:

■ **Paid Family & Medical Leave (PFML)** — MN now joins 11 other states with a Paid Family Medical Leave law. BAM joined industry allies to oppose this one-size-fits-all approach. We believe this benefit should be negotiated between employers and employees, not mandated.

PFML is a state-run employee/employer insurance program for workers to access for family, bonding, and serious medical conditions. Administered by DEED and enforced by DLI, the program will start **January 1, 2026** (reduced by 6 months in previous versions) and includes **benefits for up to 20 weeks** (reduced from 24 weeks in previous versions). \$648M in state “seed money” was allocated, then the program will be paid for with a .7% withholding tax split between employer and employees from 2026 and ongoing. BAM remains concerned about the law’s impact on employers, and is skeptical the .7% withholding tax will cover future costs of this program. We believe this

well-meaning program will eventually need to be fixed to deal with unintended consequences. BAM will continue to lobby to address concerns.

 [For More Detailed PFML Information: DLI Brief](#)

 [New PFML Law Chapter 59](#)

■ **Earned Sick And Safe Time** — As of January 1, 2024, employees statewide will earn one hour of sick and safe time for every 30 hours worked and be able to accrue up to 48 hours of safe and sick time each year when they need to recover from illness, go to a doctor's appointment, care for a child, or get care due to domestic abuse, stalking or sexual assault. Employees can carry over earned but unused safe and sick time into the following year. Total amount accrued but unused must not exceed 80 hours, unless an employer agrees to do a higher amount. There is a \$10k fee for each violation.

Minnesota's current sick and safe leave law remains in effect until Dec. 31, 2023 and will be replaced by the new law on Jan. 1, 2024.

 [For More Detailed Safe & Sick Time Info: See DLI Brief](#)

■ **Nursing Mothers & Pregnant Employee Protections** — Effective July 1, 2023 this law updates the Women's Economic Security Act (WESA) allowing lactating employees to express milk in the workplace, and for pregnant employees to receive pregnancy accommodations from employers of all sizes. DLI describes it as removing "language limiting the right to reasonable break times to express milk to the 12 months following the birth of the child and removes the undue hardship exemption for providing such breaks. **These updates also lower the employee threshold for providing pregnancy accommodations to employees from 15 to one, effectively expanding the right to pregnancy accommodations to all employees.** Employers must also provide a written notice to employees of their right to express milk and have pregnancy accommodations at the time of hire and publish these rights in the employee handbook (DLI must provide the text). (Article 11, Sections 21, 23-24, 26-37 of SF3035)"

 [Jobs Chapter 53: Nursing Mothers Article 11, Sections 21, 23-24, 26-37](#)

TAXES & FEES

One lawmaker quipped this legislature may have simultaneously passed the largest tax cuts and largest spending increases in history. Lawmakers passed \$3B in tax relief targeting middle and lower income earners, while also increasing taxes and fees, over

Republicans' objections, on businesses and higher wage earners. Additionally, the seven county metro sales tax will increase by 1% effective on October 1, 2023. To fund transportation priorities, there will be a gas tax increase up to 5 cents a gallon by 2027, linked to inflation and beginning January 1, 2024. This could bring the gas tax from 28.5 cents to 33.5 cents a gallon. Furthermore, starting July 1, 2023 there will be a 50 cent delivery fee on packages of \$100 or more.

■ **Historic Tax Credit Reinstated** — BAM welcomes the extension of the 20% Historic Tax Credit tax which expired in 2022. This extension runs through 2030, and via a Department of Revenue Brief “also provides for a special rule to revive the credit for projects that started rehabilitation work after June 30, 2022, but before July 1, 2023, to apply for an allocation certificate if the application is received on or before August 30, 2023.” The resulting rehabilitated buildings, construction jobs, and economic activity make this credit an excellent state investment.

 [Taxes Chapter 64: Historic Tax Credit Art 1, Sec 50](#)

 [Tax Law Changes: Department of Revenue Brief](#)

THANK YOU

Your voice is more important than ever. BAM continues to fight for and along with you to advocate for policies that lower housing cost drivers, address workforce shortages, incentivize new housing and remodels, and fight against unreasonable mandates. Thank you for your expertise and hard work. Special thanks to Chair Keith Kylmala for convening and leading BAM's Government Relations committee.

BAM EXECUTIVE COMMITTEE MEMBERS

- Jody Keppers, 2023 President
- Nick Olson, Vice President
- Gerry Traut, Immediate Past President
- John McGuine, President-Elect
- Dale Juntunen, Treasurer
- Jean DeWitz, Presidential Appointment
- Steve Noble, Secretary, BUILD PAC Trustee

- Keith Kylmala, GR Committee Chair & BAM PAC Trustee
- Len Pratt, BUILD PAC Trustee

BAM LEGISLATIVE TEAM

- Grace Keliher, BAM Executive Vice President
- Brian Halloran, Redmond Associates
- Larry Redmond, Redmond Associates
- Andrea Perzichilli, Redmond Associates
- Phyllis Walker, BAM Project Manager

 [For More Member Resources: BAM Website](#)