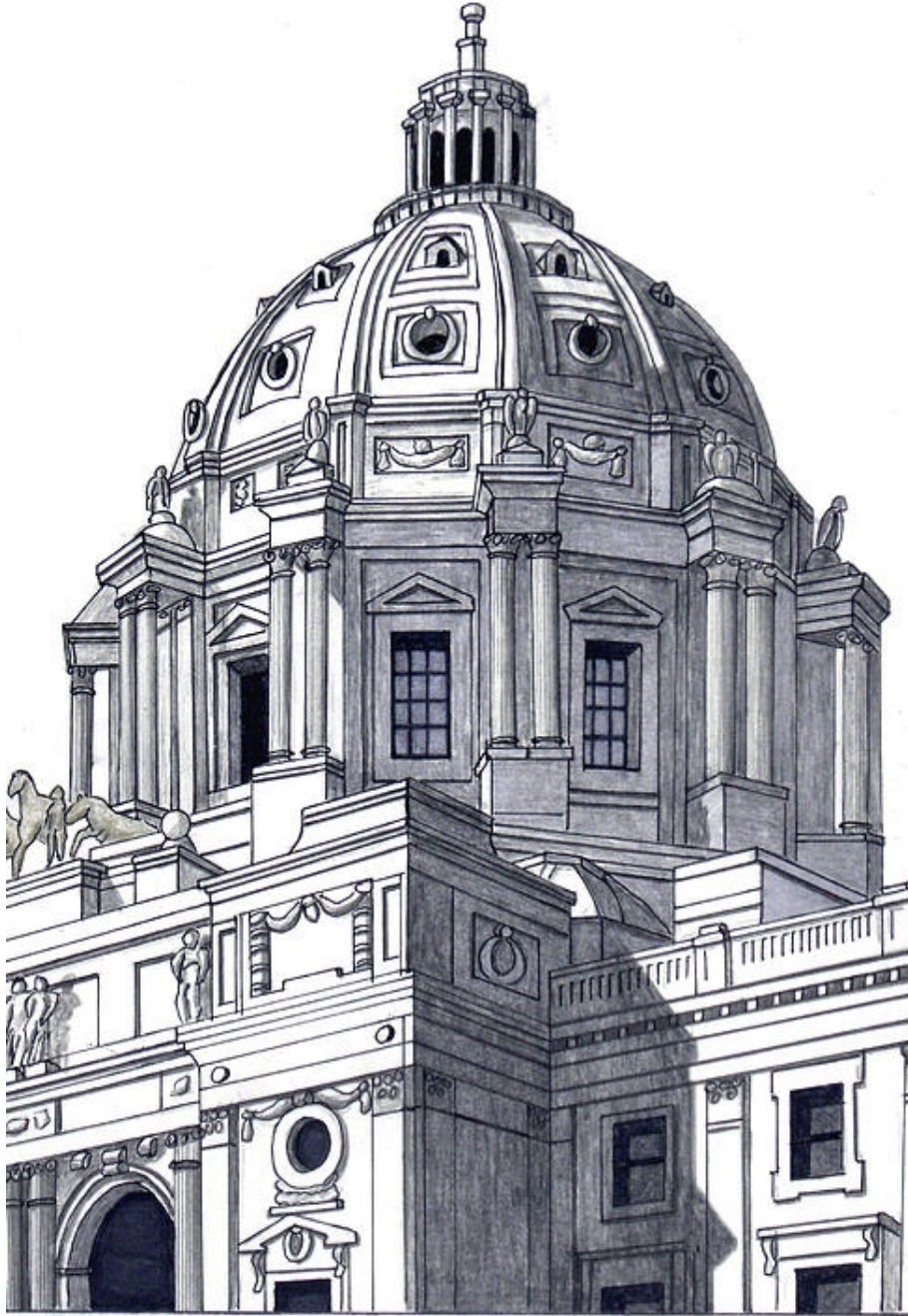


# 2021 LEGISLATIVE REPORT



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## **BUILDERS ASSOCIATION OF MINNESOTA**

# **2021 LEGISLATIVE REPORT**

**Divided government is difficult.** Lawmakers on each side of the political spectrum feel strongly about their beliefs, so making a deal can be painful. Unlike the federal government, MN lawmakers are constitutionally required to pass a balanced budget. It took an incomplete Regular Session, then a Special Session in June, but the Republican-controlled Senate and the Democratic-controlled House completed their work sending a \$52b budget to Governor Walz, narrowly avoiding a shutdown.

**BAM had another successful session.** Like everyone, we had to adapt our advocacy to navigate the challenges of a largely remote/hybrid session. Our April 14th “virtual” Day at the Capitol, BAM Priorities letters, bipartisan local relationships, many Zoom lobbying meetings, and even legislator cell numbers were more critical than ever. Special thanks to Chair Keith Kylmala for convening and leading BAM’s Government Relations committee. We thank all our members whose expertise and advocacy are key to BAM’s success.

**The 2021 legislature convened on January 5th facing a May 17th deadline** to be pass a balanced budget. In reality, lawmakers (and BAM) had never really stopped working since COVID hit in March of 2020. Sharp divisions about the ongoing COVID response and the Governor’s powers strained relationships. Crafting the 2021 budget was not predicted to be easy. And it wasn’t. By early February large deficits were projected as COVID made the state’s tax receipts and economic forecasting unpredictable. Legislators and advocates like BAM geared up to fight the tax increases, raids on funds (like the Contractor Recovery Fund), fee increases and budget cuts that accompany deficits. In late February, state economists reported that the budget outlook swung from a *\$1.3 billion deficit to a \$1.6 billion surplus*. Good news overall. However a surplus required lawmakers to quickly pivot, then pivot again in May with news of almost \$9b in American Rescue Plan Act stimulus money headed to Minnesota. The federal government granted Governors significant authority over the stimulus dollars, but little guidance by May about how to spend it. This caused Republicans to demand legislative input. Furthermore, strong disagreements on policing, equity, Walz’s Emergency Powers, taxes, “CA clean cars” emissions rules, and healthcare caused BAM and other political insiders to believe the May 17th end of session deadline was impossible; and it was. Legislative leaders and the Governor continued to meet after time ran out in Regular Session, negotiating feverishly to avoid a government shutdown on July 1st.

**Governor Walz called a Special Session on June 14th**, signaling that leaders had reached an agreement. Tense smiles were captured in press conferences. Legislators moved the bills that encompassed the agreed-to provisions. Democrats touted their efforts to invest in public education, front line workers, rental assistance for tenants, aid for businesses damaged during last year’s civil unrest, police reform measures and changes aimed at improving racial disparities. Republicans highlighted their successful efforts to prevent tax increases proposed by Governor Walz, to negotiate \$1b in tax cuts to those affected by COVID, to prevent healthcare cost increases through “reinsurance”, to invest in roads, bridges and student

focused education, and to reign-in the Governor's Emergency Powers.

**The House adjourned Sine Die on June 30th**, having sent all budget bills to the Governor before the July 1st shutdown. As evidence of still frayed relationships, especially between the Senate Republican Caucus and the Governor, the Senate remained in Special Session. Majority Leader Gazelka signaled that some commissioners may not be confirmed. By the time the Senate adjourned Sine Die on July 7th, PCA Commissioner Laura Bishop preemptively resigned as it was made clear she would not be confirmed.

**We do expect another brief Special Session this September to deal primarily with a new law allotting \$250m for to-be-defined "frontline workers."** Details are to be negotiated by a 9-member Frontline Worker Pay Working Group with specific recommendations to the Governor, House Speaker and Senate Majority Leader due September 6th of this year.

**The 2022 Regular Session will begin on January 30th.**

## **WHAT YOU NEED TO KNOW, BY ISSUE AREA**

Governors tend to set the tone when they present their detailed budgets at the beginning of each biennial budget session. But only the legislature can pass bills. The state's budget begins with committee hearings, eventually resulting in massive budget bills organized by issue area like education, healthcare, taxes etc. Those bills are called "Omnibus" bills, and they initially represent the priorities of the House and Senate majorities. Because the House Democratic Majority and Senate Republican Majority have very different budget and policy priorities, those Omnibus bills need to be fiercely negotiated. Those negotiations take in "conference committees" (regular session) or "working groups" (June Special Session). BAM is involved as watchdog and advocate every step of the way.

**Following are highlights of BAM wins and other law changes relevant to our industry, organized by Omnibus Bills sent to the Governor in June, and now signed in to law.**

 For more information click on the [links in blue](#) below:

# **JOBS OMNIBUS BILL**

**CHAPTER: 10 BILL: \*SF9 / HF1 SUMMARY**

**HOUSE Members: Chair Noor, Ecklund, Olson L, Berg, Hamilton**

**SENATE Members: Chair Pratt, Rarick, Housley, Draheim, Eken**

The Jobs Omnibus Bill funds agencies that affect BAM members such as the Department of Labor & Industry (DLI), the Department of Employment Economic Development (DEED), and the Minnesota Housing Finance Agency (MHFA).

## **BAM SUPPORTED**

### **✓ Protecting The Contractor Recovery Fund (CRF) From Raids (PASSED)**

A top BAM lobbying priority, born from our 2020 Day at the Capitol. Sen Eichorn (R - Grand Rapids) & Rep Mekeland (R - Clear Lake) authored legislation ([Sf419 / HF762](#)) to protect the *builder-funded* Contractor Recovery Fund from potential raids to fill state budget deficits or use outside the fund's intended scope. The CRF is a consumer protection mechanism to compensate residential homeowners in rare cases of licensed contractor fraud or failure of performance. *Only homeowners who hire licensed contractors are eligible for this resource.* BAM is proud of the CRF and the work we did this session to improve it. We are protective of the fund's ongoing health and integrity. Our members cite the CRF as one of many important reasons homeowners should work with licensed contractor professionals. (see SF9, Art. 3, Sec. 16)

Thanks to this year's success, the CRF statute (326B.89, subdivision 4) now clearly states "*no money from this fund may be transferred or spent*" unless used for the allowable and intended uses stated in statute.

Those narrow allowable uses are to:

- 1) compensate owners or lessees of residential real estate who meet the requirements;
- 2) reimburse the DLI for all legal and administrative expenses, disbursements, and costs, including staffing costs, incurred in administering and *defending* the fund;
- 3) pay for educational or research projects in the field of residential contracting to further the purposes of sections 326B.801 to 326B.825; and
- 4) provide information to the public on residential contracting issues.

BAM thanks the bill authors, DLI, and legislative Chairs Senator Pratt (R - Prior Lake) and Representative Ecklund (D - International Falls) for including this in the final Jobs Omnibus agreement.

### **✓ Reforming the Contractor Recovery Fund (CRF) & Reducing Fees (PASSED)**

A BAM lobbying priority, we worked closely with legislative champions and the Department of Labor &

Industry to make responsible reforms to the CRF that:

**1) increase consumer protections** by increasing the maximum payout to affected homeowners per (rare) incident (from \$300k to now \$550k – \$800k was originally proposed), the cap per household remains at \$75k;

**2) increase payout frequency to affected homeowners** from once to twice annually;

**3) reduced construction industry related fees by \$4.5m** for the biennium – BAM appreciates DLI's stewardship of the CRF, and their advocacy for this welcomed construction-industry fee reduction.

## **BAM OPPOSED**

### ✓ **Costly Employer Mandates** (DEFEATED)

A top lobbying priority for our members, BAM worked to defeat well-intentioned but devastating to small employers "paid sick and safe time" one-size-fits-all mandates from becoming law. BAM joined industry allies in the Chamber of Commerce's "United for Jobs Coalition."

Note, a far less controversial bipartisan provision passed, requiring nursing mothers, lactating employees, and pregnancy accommodations. MN House Research summarizes the new law as "Requires an employer with one or more employees to provide reasonable paid break times for nursing and lactating employees to express milk for the first year after their child's birth unless it would cause undue disruption. An employee must use existing break times provided by the employer if possible. Incorporates existing pregnancy accommodations language into the lactation break section, now requiring an employer with 15 or more employees to provide a requesting employee with reasonable accommodations for health conditions related to pregnancy or childbirth, unless the employer shows it would be an undue hardship. Some accommodations may require advice from a medical provider. Prohibits retaliation against an employee for requesting pregnancy accommodations or break times for lactation. Effective date: This section is effective January 1, 2022."

### ✓ **Measures That Fracture Code Uniformity** (DEFEATED)

BAM lobbied in opposition to a legislative effort by North Dakota & Moorhead builders to change the "frost line footings" requirement in the building code for border city enterprise zones. BAM consistently advocates for building code uniformity and statewide enforcement *to help prevent homeowner confusion and prevent unlicensed building activity*. BAM opposed [Sf1114 / Hf1402](#) which would have further fragmented the MN building code, only applying to a few cities. BAM sympathizes with MN border communities competing with states with less costly building codes and different frost footing depth requirements in the same housing market.

Therefore, BAM sought guidance from our members early in session, and used that guidance to work in coalition with the Association of MN Building Officials (AMBO) to defeat the legislation while

simultaneously advocating to help address concerns raised.

BAM successfully advocated to implement a Construction Codes Advisory Council (CCAC) an avenue to address the legitimate cost concerns of MN home builders in border communities. BAM will use the data gathered through that CCAC process to determine next steps. Those next steps will balance BAM's advocacy for code uniformity with BAM's ongoing advocacy to reduce the cost of codes and promote housing affordability.

 [For More Information – BAM/AMBO Letter: Senate & House Jobs Omnibus Committee](#)

## **ADDITIONAL RELEVANT PROVISIONS**

### **✓ Net Zero For Commercial Buildings (DID NOT PASS)**

This House provision would have enabled the adoption of a statewide building energy code and reach net zero for *commercial* buildings, by 2036. This provision did not affect residential buildings.

### **✓ Adding 2 Members to the Construction Codes Advisory Council (CCAC) (PASSED)**

This provision adds both an energy conservation industry member and a building accessibility member to the 16-member CCAC. BAM supported Sen Rarick's (R - Pine City) amendment to include a commonsense requirement that CCAC members have "expertise in" their select fields.

### **✓ High Rise Sprinkler Mandate For Public Housing (PASSED)**

BAM closely monitored the robust legislative discussions on this issue following a tragic fire in the upper floors of a Minneapolis high rise several years ago. The changes made this year set sprinkler requirements for existing public housing high rises. BAM ensured none of the changes apply to single-family construction.

### **✓ Sprinklers in wedding barns modifications (PASSED)**

Sprinkler requirement adjustments were made to accommodate popular "wedding barns"; none of these changes apply to single-family construction.

### **✓ Building officials continuing education requirement modifications (PASSED)**

Certified building officials continuing education hours required were reduced from 38 to 35 hours within each two-year certification period.

 [For More Information – BAM Letter: Senate & House Jobs Omnibus Committee](#)

# TAXES OMNIBUS BILL

**CHAPTER: 14 BILL: \*HF9/SUMMARY**

**HOUSE Members: Chair Marquart, Youakim, Her, Lislegard, Davids,**

**SENATE Members: Chair Nelson, Weber, Miller, Bakk, Rest**

The \$49.1b tax bill, authored by House Tax Chair Representative Paul Marquart (D - Dilworth) and Senate Tax Chair Senator Carla Nelson (R - Rochester) include several provisions important to BAM members, the most significant being \$761m to put Minnesota in conformity with the federal government on exempting taxes to those who utilized the Paycheck Protection Program (PPP) loans and Unemployment Benefits (UI).

## **BAM SUPPORTED**

### **✓ Full Conformity To The Federal Paycheck Protection Program (PPP) (PASSED)**

A top BAM lobbying priority, we joined other industry allies and leaders (MN Chamber of Commerce etc.) to lobby lawmakers to adopt full conformity to the federal PPP. Failure to do so would have resulted in hundreds of millions in unexpected taxes to Minnesotans who utilized PPP to weather the uncertainty and economic challenges from the COVID pandemic. BAM thanks lawmakers for hearing us, and including PPP conformity in the final legislative agreement. We especially thank the Senate Republican majority who included full conformity as an early caucus priority, and we also thank legislative authors Tax Chairs Sen Nelson (R - Rochester) and Rep Marquart (D - Dilworth), as well as Sen Bakk (I - Cook) for carrying the original legislation.

**For more information about the PPP changes and how they may help you,** the MN Department of Revenue released a notice on how to proceed (below):

"Minnesota tax code changes were signed into law on July 1, 2021. The changes relate to unemployment compensation, Paycheck Protection Program (PPP) loan forgiveness, and other retroactive conformity provisions affecting tax years 2017 through 2020.

The Minnesota Department of Revenue updated [Minnesota tax forms for tax year 2020](#) to reflect these changes. If you or your clients filed a 2020 income tax return that included unemployment compensation or PPP loan forgiveness, we will either adjust the return or we will ask you to amend.

- **If we can adjust the return,** we will send you a letter describing what we changed and any refund you may receive as a result. We are committed to adjusting as many returns as we can.
- **If you will need to amend** solely due to Minnesota tax law changes, wait until you hear from us before filing. We will let you know whether we will adjust your return or if you will need to amend.

- **If you have not yet filed a 2020 return, or filed for an extension**, you may file using the updated forms to claim the recently passed unemployment and PPP loan forgiveness income exclusions and deductions.

We continue to review Minnesota forms for tax years 2017 – 2019 and will provide updates as they are available.”

### ✓ **Housing Tax Credit (PASSED)**

BAM champion Sen Nelson (R - Rochester) advocated for this provision creating a housing tax credit to incentivize businesses and individuals to invest in low and middle income housing projects. Minnesota needs to dramatically increase new residential housing opportunities and availability, and policies like these can help us move in the right direction.

This program is administered by the MHFA, allowing taxpayers to claim a credit for contributions of at least \$1,000 and up to \$2 million – 85% of the amount contributed in the taxable year (effective for tax years 2023 - 2028). Contributions can be attributed to a specific multifamily and single family project for persons with low and moderate incomes. For more information, see [HF9, Art 1, Sections 13 & 15 \(pages 13-19\)](#).

## **ADDITIONAL RELEVANT PROVISIONS**

### ✓ **Exempting vendors of construction materials from the June accelerated sales tax “remittance requirement” (PASSED)**

Providing a new definition of “vendors of construction materials as a vendor that makes only retail sales of lumber, veneer, plywood, wood siding, wood roofing, millwork, including wood trim, wood doors, wood windows, wood flooring; or concrete, cement, and masonry. The exemption expires when the June accelerated remittance percentage reaches zero. Effective for sales and purchases made after June 30, 2021.

 [For More Information – BAM Letter: Senate & House Tax Omnibus Committee](#)

## **HOUSING OMNIBUS BILL**

**CHAPTER: 8 BILL: \*[HF4 SUMMARY](#)**

**HOUSE Members: Chair Hausman, Howard, Agbaje, Reyer, Theis**

**SENATE Members: Chair Draheim, Duckworth, Dahms, Pratt, Dziedzic**



BAM testified early in session in favor of the Senate Housing Committee's efforts to promote housing affordability by responsibly reducing cost-driving regulations. We thank home builder champions like Chair Draheim (R - Madison Lake) for his efforts.

## **BAM SUPPORTED**

### **✓ Removal of mandate for window dedicated anchorages in certain circumstances (PASSED)**

Sen Koran (R - North Branch) and Rep Fischer (D - Maplewood) advanced [SF802/HF1496](#) which was included in the final Housing Omnibus agreement (Article 2, Sec.4).

The provision exempts one and two-family dwellings from the code requirement for window fall prevention device when:

1) the lowest part of the window opening of an operable window is a minimum of 24 inches above the finished floor of the room in which the window is located; or

2) the lowest part of the opening of an operable window is located 72 inches or less above the exterior grade below.

## **ADDITIONAL RELEVANT PROVISIONS**

### **✓ \$100m MHFA Housing Infrastructure Bonds Authorized (PASSED)**

Including \$18,333,000 to be applied to single-family housing priorities, effective January 16, 2022 (Article 4, Sec. 1). BAM supports efforts to improve availability of low-and-moderate-income single family housing opportunities in Minnesota.

### **✓ Eviction Moratorium Lifted (PASSED)**

The most controversial part of the Housing Omnibus Bill, the agreement ended Governor Walz's orders preventing evictions and lease terminations during the COVID Peacetime Emergency and provides temporary provisions (mostly 105 days after the bill's enactment) for tenants to avoid eviction and lease terminations in certain circumstances. (Article 5, Sec 1-4)

 [For More Information – BAM Letter: Senate & House Housing Omnibus Committee](#)

## HIGHER ED OMNIBUS BILL

**CHAPTER: 2 BILL: \*HF7 / [SUMMARY](#)**

**HOUSE Members: Chair Bernardy, Christensen, Keeler, Klevorn, O'Neill**

**SENATE Members: Chair Tomassoni, Rarick, Goggin, Jasinski, Clausen**

The Higher Ed bill increased funding for the Minnesota State system of colleges and universities. BAM will continue to prioritize efforts in this issue area, to create more opportunities for students to see the opportunities available to them as professionals in the construction industry.

### BAM SUPPORTED

#### ✓ Expanding a workforce scholarship program (**PASSED**)

This important provision incentivizes students to attend 2-year colleges; supports jobs in high demand fields; and allows Higher Ed institutions to add an additional area of study based on a workforce unique to their region. BAM supported this provision. BAM also joined Sen Tomassoni (I - Chisholm) in advocating to add "construction" to the definition of high demand fields. While that provision did not progress to the final Higher Ed agreement, it was made clear on the Senate floor during the bill's passage that a Higher Ed institution could add construction as an additional area of study. BAM will continue to advocate that "construction" should be added to the definition of high demand fields. Our members strongly believe in the importance of educational opportunities to learn about and be trained in careers in construction.

 [For More Information – BAM Letter: Senate & House Higher Ed Omnibus Committee](#)

## STATE GOVT FINANCE OMNIBUS BILL

**CHAPTER: 12 BILL: \*SF2/[SUMMARY](#)**

**HOUSE Members: Chair Nelson, Xiong T, Masin, Greenman, Nash**

**SENATE Members: Chair Kiffmeyer, Lang, Koran, Howe, Carlson**

BAM doesn't usually need to focus efforts in this issue area, one that deals with state government operations, veterans affairs, and elections. But embedded in the House version of this bill was a provision to *increase park dedication fees on development* in the cities of Duluth and Rochester.

### BAM OPPOSED

#### ✓ Increased park fees on development in the cities of Duluth and Rochester (**DEFEATED**)

BAM and industry allies fought against the inclusion of this provision in the final version of the Omnibus State Government Finance Bill. These additional fees are onerous as they would have represented yet another layer of fees on housing that affects both homeowners and home buyers. BAM believes it is especially important to eliminate additional cost drivers that will raise prices for consumers and will push more people out of home ownership opportunities

 [For More Information – BAM Letter: Senate & House State Govt. Omnibus Committee](#)

## COMMERCE/ENERGY OMNIBUS BILL

**CHAPTER: 4 BILL: \*HF6 / SUMMARY**

**HOUSE Members: Chair Stephenson, Long, Hollins, Acomb, O’Driscoll**

**SENATE Members: Chair Dahms, Senjem, Utke, Mathews, Frenz**

The Omnibus Commerce/Energy bill began with widely differing versions in the House and Senate. BAM actively monitored the development of this legislation to ensure provisions in the final version did not negatively affect our industry.

**✓ Establishing a state goal to reduce greenhouse gas emissions in existing commercial and residential buildings by 50% by 2035 (DID NOT PASS)**

This goal, not a mandate, was advanced in the House Omnibus but was not part of the version passed into law.

**✓ Requiring DLI to adopt each new commercial energy code published by ASHRAE or a more stringent code, which must increase energy efficiency by at least 8% with each new code adopted (DID NOT PASS)**

This provision applied to commercial buildings, and did not apply to new residential housing. It too advanced via the House Omnibus bill but was not part of the final bill passed into law.

## ENVIRONMENT OMNIBUS BILL

**CHAPTER: 6 BILL: \*SF20 / SUMMARY**

**HOUSE: Chair Hanson, Wazlawik, Morrison, Fischer, Heintzeman**

**SENATE: Chair Ingebrigtsen, Ruud, Eichorn, Tomassoni, Westrom**

The Omnibus Environment Bill funds, in part, the Department of Natural Resources, Pollution Control

Agency, Board of Water and Soil Resources, Explore Minnesota Tourism, Conservation Corps, Minnesota Zoo and the Science Museum of Minnesota.

## **BAM OPPOSED**

### ✓ **New fee imposed on mortgage registry & deed taxes (DEFEATED)**

This provision would have unnecessarily increased the cost of housing, using a new \$25 fee on mortgage registry & deed taxes for non housing priorities.

### ✓ **Carpet Stewardship Program (DEFEATED)**

BAM joined industry allies in opposing the development of an onerous and expensive carpet stewardship program, falling largely on the backs of those in the construction industry.

🔍 [For More Information – BAM/Flooring Association/Housing First Coalition Letter](#)

🔍 [For More Information – BAM Letter: Environment Omnibus Committee](#)

## **FOR MORE RESOURCES ABOUT 2021 NEW LAWS**

🔍 **New Laws / Chapters 2021 Special Session**

<https://www.house.leg.state.mn.us/bills/Chapters/92/2021/1>

🔍 **New Laws / Chapters 2021 Regular Session**

<https://www.house.leg.state.mn.us/bills/Chapters/92/2021/0>

## **WHAT'S NEXT**

More than 3300 bills were introduced in 2021. Only 45 of them were sent to the Governor for signature as either omnibus or single bills, and are now law. That leaves many bills for possible consideration in the 2022 Regular Session, some of which BAM fully supports and others we will need to defend against or actively monitor such as the "Street Improvement" and "Duty to Defend" bills.

✓ **Street Improvement Fees On Development (SF277/HF2296)**

Stemming from the Supreme Court ruling in Harstad v. City of Woodbury. This legal case states that cities do not have the statutory authority necessary to impose a fee for future street improvements. The Supreme Court ruling meant that cities had to utilize other ways to fund future street infrastructure. This legislation has been brought to the legislature by the League of MN Cities. While BAM members have positive relationships with local officials, BAM opposes this legislation due to concerns about this bill adding \$8,000 - \$10,000 to the price of a house. During the pandemic, the price of building has increased due in part to labor shortages, interruptions in supply chain, and the cost of building materials. BAM believes that in order to solve this issue, everyone should be at the table to discuss the issues their organizations face and then be ready to find a solution. The present process only continues to keep us in our separate corners and stalls development. Home buyers deserve a solution that they can afford.

### ✓ **Duty to Defend** [\(SF1025\)](#)

Removes a subcontractors "duty to defend" the general contractor, as is currently written into contracts. BAM will continue to monitor this legislation as it affects both general contractors and subcontractors.

■ **Please let us know which legislative priorities are most important to you. BAM will continue to be a watchdog and advocate for common sense laws that benefit our members, our industry, and the state of Minnesota.**

## THANK YOU

We are in a time of unique challenges, but through it BAM has worked hard to defend and protect the industry and make sure our industry's voice is heard. Thank you to all our members, for your professionalism, expertise, and advocacy at the legislature. We thank those who joined us in our many Zoom strategy and lobbying meetings as well. Your remarkably strong relationships with local legislators, when combined statewide, help make BAM influential and effective at the Capitol. BAM's voice is strong!

### BAM EXECUTIVE COMMITTEE MEMBERS

- **Howie Zetah**, Zetah Construction, 2021 BAM President
- **Steve Noble**, Noble Custom Homes, Immediate Past President
- **Ben Edwards**, Edwards/La Plant Construction, Treasurer
- **Gerry Traut**, Xcel Energy, President Elect
- **John McGuine**, J&M Consulting, Builder Vice President
- **Jody Keppers**, Keppers Design, Associate Vice President

## **BAM LEGISLATIVE TEAM**

- **Grace Keliher**, BAM Executive Vice President
- **Brian Halloran**, Redmond Associates
- **Larry Redmond**, Redmond Associates
- **Andrea Perzichilli**, Redmond Associates
- **Sean Ryan**, Communications Consultant
- **Renee Ellerman**, BAM Project Manager