

Minnesota Legislature Adjourns: Special Session Ahead?

Alert

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The Minnesota legislature left a mountain of unfinished business when they adjourned on May 18, leaving major pieces of legislation unfinished and left on the cutting room floor. Included in the list of unfinished business were numerous budget, tax and policy bills. Most importantly, the legislature was unable to agree on, much less pass, a capital bonding bill that was supposed to be the hallmark of the 2020 legislative session. The capital bonding bill was unable to pass in either body over the course of last weekend's long deliberations.

Discussion has immediately turned to whether DFL Governor Tim Walz will call legislators back to the Capitol by calling a special session. Only the governor has the ability to call a special session and he has sufficient motivation to do so: The governor's peacetime emergency order regarding the pandemic is set to expire on June 12, 2020. In order for the governor to extend the order for 30 more days, he is required to seek legislative approval. That is where things get tricky with a divided legislature—Republicans control the Minnesota Senate and the House is under DFL control. In order to get the Republican Senate majority to vote for an extension, they would probably seek some concessions and conditions limiting his authority and granting the legislature some oversight.

The COVID-19 pandemic has also proven to be a challenge to how the legislature typically works and how it processes legislation. Legislators mostly deliberated by electronic means and staff processed legislation from remote locations. This proved to be a challenge as legislators raced to finish their business before Monday's constitutional deadline. As an example, roll call votes in the House can take up to forty five minutes to complete because they have to be done manually, whereas legislators would have otherwise voted electronically and in person from the House chamber.

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Besides extending the governor's peacetime emergency powers, numerous other issues will be in the mix including:

- Capital bonding
- Public education policy
- Environment policy
- Teen driver's licensing and testing
- Tax policy, including tax relief for the Mall of America
- Legislative oversight of spending of federal emergency dollars

If a special session were to be called by the governor, it would likely happen after he and legislative leaders come to an airtight agreement that would come in the form of a written agreement specifically outlining the parameters of a special session.

DISCORD OVER BONDING PACKAGE

The Capital Investment (or bonding) bill, which funds infrastructure projects around the state of Minnesota, was one of the major pieces of legislation left unfinished at the end of the regular session. The bill must first start in the House, and requires a 3/5 majority to pass. This means six Republicans would have to join all Democrats in voting yes to secure passage. However, in the final weeks of session, the House minority leader drew a line in the sand and said his caucus would not put up votes for the bill if the governor extended his peacetime emergency powers for another 30 days, which the governor did on May 13.

When the House bonding bill, HF 2529, was finally released May 11, it came in at just over \$2 billion in general obligation bonds and \$495.9 million in additional appropriations for a total of \$2.52 billion. The bill came to the House floor May 16. The discussion on the bill did not focus on the governor's peacetime emergency powers; instead, the minority caucus pointed to the high price tag on the bill and stated it was financially irresponsible to add to the state's budget deficit in the midst of the economic uncertainty brought on by the COVID-19 pandemic. When the votes were counted, it was six votes short of passage in the House.

The Senate bill, SF 3463, was dropped on Saturday afternoon, just over 24 hours prior to adjournment. The Senate bill came in at \$998 million with an additional \$400 million for trunk highway bonds. Senate Democrats objections included that the bill did not spend enough and did not include enough DFL projects. Like the House, the minority party did not put up the votes for the bill and it failed.

As the regular legislative session wound down without passage of a bonding bill, leaders all agreed it would be back in the special session anticipated to take place June 12. Senate Majority Leader Paul Gazelka hinted that there was an agreed-upon number somewhere in the \$1.1 and \$1.35 billion range. They now have several

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weeks to come up with a compromise product that would presumably be agreed up on prior to the start of the special session.

WHAT LEGISLATION DIDN'T PASS

In the midst of the coronavirus mitigation, it's easy to forget about how the 2020 legislative session began. Talk of a \$2 billion-plus bonding bill, recreational marijuana legalization, major climate change legislation and FMLA changes have, for the most part, faded away. Further dimming hopes of legislation beyond COVID-19 specific bills was Minnesota Management and Budget Commissioner Myron Frans' report on the state's budget. A negative \$4 billion swing took the state to a nearly \$2.5 billion deficit, fueled in most part by lower revenue, to round out this biennium's budget. Layer on top of that the extremely clunky legislative processes being conducted over online meeting platforms and the prospect for legislation of significance dealing with anything but COVID-19 became extremely low.

In the last week of regular session deliberations, despite earnest efforts, the legislature was unable to pass bills related to federal COVID-19 mitigation relief dollars, a tax bill, workers compensation funding specific to COVID-19 cases, housing assistance and most other spending bills. The predicted budget deficit rewired the entire end of session matrix and left committee chairs unable to spend new money. With those horse-trading chips off the table and a bonding bill not coming together, there was far less urgency in negotiations to close out the regular session. Further impeding typical compromises made at the end of session was a widespread belief that Governor Walz intends to call a special session.

LOOKING FORWARD TO A SPECIAL SESSION

The Legislature adjourned indefinitely, leaving a number of significant issues on the table. While special sessions are not unusual in Minnesota, the circumstances surrounding one this year certainly would be.

Governor Walz's emergency powers are set to expire on June 12. If he wishes to extend those authorities further state law requires calling a special session giving the House and Senate a chance to block the extension. The divided control of the legislature makes it highly unlikely the governor would be rebuffed, but this timeline leads many to circle that window of time for a probable special session to start. It is important to remember that while only the governor can call a special session, only the legislature can end one – and that creates opportunities.

It remains to be seen just how many issues lawmakers are interested in taking up should a special session occur. The pandemic cast a number of priorities in both bodies to the side, sometimes even issues that had bipartisan support. Special session agendas are typically tightly negotiated agreements, but given the circumstances all manner of stakeholders will be calling for their issues to be considered alongside the high profile issues remaining. This could create a great deal of pressure for caucus leadership in both bodies, especially given the upcoming election. The next few weeks will be important to watch; this calculus could

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all change if the legislature decides they would rather just proceed into campaign season or the governor alters his approach to the crisis.

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