



May 28, 2020

Minnesota Legislative Update: 2020 End-of-Session Report

The legislature convened February 11, and at the end of the month received a forecast which projected a \$1.5 billion budget surplus and hopes of passing a robust capital investment bill. Senate Republicans were hoping to use the projected surplus for income tax reductions and elimination of the tax on social security benefits while House DFLers focused on early childhood education funding and paid family leave. All four caucuses were eager to tackle insulin affordability. Given the state's budget surplus, legislative leaders were confident no special sessions would be needed.

As the impacts of coronavirus became known over the next three months, the legislature's priorities and the state's fiscal picture changed. Policy priorities like paid family leave, data privacy, clean energy and gun control were deferred until 2021. In late March, the legislature passed \$330 million in funding to help the state combat coronavirus, usurping other budget priorities — like cuts in social security taxes and early childhood funding. By May, Minnesota Management and Budget (MMB) provided an emergency budget update predicting a \$2.426 billion deficit — approximately a \$4 billion turnaround in 10 weeks.

Coronavirus changed how the legislature operated and approached its work. House and Senate offices were closed to the public. Legislators began working remotely starting March 17, and in-person meetings ended. To address transparency concerns, the legislature established temporary procedures for committee hearings and floor sessions. Teleconference hearings became the new norm. Both House and Senate rules were amended to incorporate social distancing standards and remote voting. The legislature extended its Easter/Passover break by two weeks and, except for limited sessions to pass coronavirus relief, remained in recess for almost four weeks.

Throughout session, Governor Walz (DFL) utilized executive authority to address the impacts of the coronavirus

pandemic. He declared a peacetime emergency on March 13, enabling him to exercise emergency powers, which he did. To date, the Governor has issued almost 60 executive orders regarding the pandemic on a range of topics — from temporarily closing schools, bars and restaurants to changing eligibility requirements for unemployment insurance benefits to requiring Minnesotans to stay at home unless performing critical sector work and essential activities. Some of these orders, like the order changing eligibility for unemployment benefits, were subsequently ratified by the legislature. Others, like the stay-at-home order and closure of bars and restaurants, became more controversial over time. By May, House Minority Leader Kurt Daudt (R) was threatening to block any capital investment bill until the Governor gave up his emergency powers.

As required by the state's constitution, the legislature adjourned sine die on May 17. They did so without a global budget deal or passing a capital investment bill. One or more special sessions before the end of the year seem likely; budgetary impacts from coronavirus are not yet fully understood, and Governor Walz has indicated that he plans to call a special session on June 12, 2020, to allow the legislature to weigh in on any continuation of his peacetime emergency powers. Legislative leaders remain hopeful that a capital investment bill, the state's primary opportunity to provide economic stimulus, can be finalized.

Minnesota Budget Picture Deteriorates

MMB's February forecast projected a \$1.5 billion surplus for the remainder of the FY 2020-21 biennium and structural balance in the FY 2022-23 biennium. These projections were based on a stable economic outlook, with slowing growth through the remainder of 2021 and a slowdown predicted in late 2022. Expecting only temporary and modest impacts from COVID-19, minimal adjustments for disruptions caused by the disease were included in the February outlook.

MMB is only required to prepare a forecast twice each year — in February and November. As COVID-19's economic impacts became better understood and unemployment claims soared because of executive orders closing bars, restaurants and retail establishments, MMB took the very rare step of preparing a May interim budget projection. This projection was designed to provide policy makers with better economic information and the legislature time to address any anticipated budget deficit before adjourning in May.

As anticipated, the May budget projection and economic outlook significantly changed with a deficit of \$2.426 billion is now projected for FY 2020-21. Compared to prior estimates, revenues are expected to be \$3.611 billion lower, and spending, including appropriations enacted since February, is expected to be \$391 million higher. Because the path of the pandemic and consumers', businesses' and governments' responses are uncertain, the interim budget projection estimates that the economic outlook will remain volatile for some time.

Because of difficulties in quantifying the change until the economic outlook and revenue impacts are more certain, the May projection did not include estimates for the next biennium but noted that the impact on state budget in FY 2022-23 will be significantly negative. The May interim budget projection can be found [here](#).

The legislature adjourned without addressing the projected deficit. The possibility exists that a global budget agreement addressing the deficit could be reached and passed in a special session this summer. The \$2.359 billion budget reserve also remains available to mitigate the budgetary impact of the crisis.

The next scheduled budget forecast is not scheduled until November. The possibility exists that MMB may issue another interim budget projection, possibly in August.

Governor Exercises Emergency Peacetime Authority to Address Coronavirus

Upon declaring a peacetime emergency, state law authorizes Minnesota Governors to exercise a broad array of powers to deal with acts of nature, industrial and hazardous materials accidents, terrorist incidents and other emergencies. These emergencies cannot continue past five days unless extended by the state's Executive Council to up to 30 days. The legislature may, by affirmative vote of both bodies, terminate peacetime emergencies extending beyond 30 days. If the Governor determines a need to extend the peacetime emergency declaration beyond 30 days and the legislature is not sitting in session, the Governor must issue a call immediately convening both houses of the legislature.

Governor Walz first declared a peacetime emergency on March 13, 2020 and has extended the emergency several times since then. Utilizing his peacetime authority, the Governor has issued close to 60 executive orders designed to address the coronavirus threat and protect public health. These orders include closings of bars, restaurants and other places of accommodation; closing schools and cancelling graduation ceremonies; deferring elective surgeries; and modifying eligibility requirements for unemployment insurance.

The most significant of these is Minnesota's stay-at-home order. First issued in late March, this order required Minnesotans to stay at home except to perform work in critical sectors that cannot be performed at home and to engage in limited personal essential activities. The stay at home order has been extended a number of times with revisions designed to allow workers to return to work in non-critical sectors and certain office settings upon the establishment and implementation of a COVID-19 preparedness plan.

A list of key executive orders is below:

- Peacetime Emergency Declaration and Extensions:
 - [Executive Order 20-01](#), [Executive Order 20-35](#)
- Stay-at-Home Order and Extensions:
 - [Executive Order 20-20](#), [Executive Order 20-33](#), [Executive Order 20-48](#)
- Closures of Bars, Restaurants and Places of Public Accommodation:
 - [Executive Order 20-04](#), [Executive Order 20-08](#), [Executive Order 20-18](#), [Executive Order 20-33](#), [Executive Order 20-48](#)
- Safely Reopening Businesses:
 - [Executive Order 20-40](#), [Executive Order 20-48](#), [Executive Order 20-56](#)
- Closures of Brick and Mortar Schools, Distance Learning implementation:
 - [Executive Order 20-02](#), [Executive Order 20-19](#), [Executive Order 20-41](#)

A full list of executive orders issued in response to the coronavirus pandemic can be found [here](#). A chart providing information on future re-opening phases is available [here](#).

During March and April, the Governor's approach enjoyed broad bipartisan support. Starting in early May, however, that support became less so as House and Senate Republicans called for loosening restrictions and restarting the economy. By late May, House Minority Leader Kurt Daudt (R) was threatening to block any capital investment bill until the Governor gave up his emergency powers. Legislation was introduced, but not passed, proposing to end the peacetime emergency and limit the Governor's peacetime emergency authority power.

Governor Walz continues to move towards loosening restrictions on activity contained in his executive orders. On May 20, Governor Walz announced a plan for limited openings of businesses including bars, restaurants, personal care services including hair salons, and campgrounds starting June 1 following specific guidance from the Department of Employment and Economic Development (DEED).

Bars and restaurants can open with outdoor seating and curbside pick-up. Personal care services, including barber shops, hair salons, nail salons and tattoo parlors, will be allowed to open at 25% of capacity with both clients and employees wearing masks. Subsequently, churches following social distancing guidelines were able to hold services as long as the gatherings don't exceed 25% of a building's capacity.

The following links provide detailed current guidance for [bars and restaurants](#) and [personal care services](#).

The Governor's current peacetime emergency authority expires June 13. Speculation on a June 12 special session is fueled, in part, by the Governor's commitment to not extend any single peacetime declaration beyond 30 days, thus allowing the legislature to weigh in on his continued use of that authority.

Legislature Responds to Coronavirus

The Legislature appropriated approximately \$550 million to address coronavirus, and those appropriations were passed largely unanimously. A few key provisions include:

- \$200 million for the state's health care system, which \$50 million was used for emergency cash flow for health care organizations and \$150 million in grants for health care providers.
- \$30 million for emergency grants for child care programs to remain open and prioritize space for emergency workers.
- \$30 million small businesses emergency loans and loan guarantee program for those directly impacted by executive orders.
- Workers compensation coverage for first responders and health care professional who contract COVID-19 during the course and scope of their employment.
- School finance formula adjustments due to glitches when switching to distance learning model and are designed to be revenue neutral.

The legislature was unable to come to an agreement on how to distribute federal Coronavirus Aid, Relief and Economic Security (CARES) Act money to local governments. The federal CARES Act provided \$667 million to be distributed to local governments for expenses related to the coronavirus pandemic starting in March through the end of the year. Urgent action is needed as any money not spent by December 31 is returned to the federal government. The Senate GOP pushed for more oversight on how Governor Walz can spend incoming federal funds, and that discussion could continue during special sessions.

Capital Investment

Traditionally, the legislature's primary focus in even numbered years is capital investment. With a projected surplus and low interest rates, the expectation was that the legislature would pass a significant bonding bill when the legislature convened in February. Over \$5 billion in requests for state and local transportation, transit, wastewater, housing, higher education and other infrastructure projects were submitted to the state for consideration. Drawing from these requests, Governor Walz's Local Jobs and Projects Plan, released in January, proposed over \$2.6 billion in investments — \$2 billion in general obligation bonds and approximately \$600

million in other funding sources, including appropriations bonds and general fund cash.

House and Senate leadership's bonding proposals, released in the last weeks of session, were different in size and focus. The House DFL bonding bill invested approximately \$2.5 billion in water infrastructure, higher education, corrections, transit, road and bridge repair, and deferred building maintenance. The Senate Republican proposal invested approximately \$1 billion focused heavily on infrastructure, of which about half was dedicated to transportation.

Despite negotiations, the legislature was unable to agree on a bill before it adjourned. Both proposals failed on floor votes, as neither garnered enough minority party support and the three-fifths majority vote needed to pass. House Republicans believed the House bill spent too much given the state's changed economic environment, while Senate DFLers argued that bonding is the state's best tool for providing economic stimulus and restarting the economy, which the Senate bill invested too little. Concerns regarding the Governor's exercise of peacetime emergency authority were also tied to votes for the bill, complicating negotiations. As the legislature adjourned, Senate Majority Leader Paul Gazelka said agreement had been reached on a final bonding amount, hinting that is in the \$1.1 billion to \$1.3 billion range. All leaders expressed hope that a bonding bill can be agreed to and passed in special session.

2020 Legislative Accomplishments

While several issues, including data privacy and clean energy, were deferred because of the coronavirus pandemic the legislature was able to make progress on others before adjourning. These issues include:

- **Insulin Affordability.** After a year of debate and work, the legislature passed the Alec Smith Emergency Insulin Act. Authored by Rep. Mike Howard (DFL- Richfield) and Sen. Scott Jensen (R- Chaska), the legislation requires a 30-day emergency supply of insulin be made available for a co-pay of no more than \$35, with an additional 30-day emergency supply available if necessary. It also creates a longer-term program for those under certain income limits who don't have insurance or have insurance with larger co-pays. Insulin manufacturers doing business in the state are required to participate in the program and face significant fines for non-compliance. Insulin affordability was a session priority.
- **Tobacco Age Raised.** Another session priority was raising the age to purchase tobacco in Minnesota to 21. Authored by Rep. Heather Edelson (DFL- Edina) and Sen. Roger Chamberlain (R- Lino Lakes), "T-21" passed in the final days of session, bringing Minnesota law into compliance with federal law, which raised the purchasing age for tobacco from 18 to 21 in December of 2019. It also updates state compliance checks and best practices of state penalties to better conform with federal law.

- **Election Security.** The legislature reached agreement to appropriate approximately \$17 million in federal money to improve election security and respond to the coronavirus pandemic. The \$17 million comes from two sources: \$6.6 million from federal election security funds allocated as part of the Help America Vote Act (HAVA) and the remainder through recent COVID-19 aid appropriated by Congress. This agreement also provides state and local officials more flexibility to move polling places — over 40 state polling places are in nursing homes, senior care facilities and other places impacted by the coronavirus pandemic — and more time to process absentee ballots.
- **Prescription Drug Transparency.** Authored by Sen. Julie Rosen (R - Vernon Center) and Rep. Kelly Morrison (DFL- Deephaven), the legislation requires pharmaceutical companies to submit a range of pricing information to the Minnesota Department of Health (MDH) when prices for prescription drugs exceed specified thresholds. Following that review, MDH is required to post that information on a public website.

Legislative Retirements and Elections

All 201 seats of the Minnesota House and Senate are on the ballot this November. Senate Republicans are defending a two-seat majority while House DFLers are defending a 16-seat majority. Minnesota has the only divided legislature in the country.

The following eighteen legislators have announced they are not running for reelection:

- Sen. Paul Anderson (R – Plymouth)
- Sen. Dick Cohen (DFL – St. Paul)
- Sen. Scott Jensen (R – Chaska)
- Sen. Carolyn Laine (DFL – Columbia Heights)
- Rep. Hunter Cantrell (DFL – Savage)
- Rep. Lyndon Carlson (DFL – Crystal)
- Rep. Jack Considine (DFL – Mankato)
- Rep. Dan Fabian (R – Roseau)
- Rep. Bob Gunther (R – Fairmont)
- Rep. Ben Lien (DFL – Moorhead)
- Rep. Tim Mahoney (DFL – St. Paul)
- Rep. Alice Mann (DFL – Lakeville)
- Rep. Bud Nornes (R – Fergus Falls)

- Rep. Duane Sauke (DFL – Rochester)
- Rep. Bob Vogel (R – Elko New Market)
- Rep. Jean Wagenius (DFL – Minneapolis)

Two members are retiring to run for other office – Rep. Mary Kunesh-Podein (DFL – Columbia Heights) to run for the Minnesota Senate and Representative Laurie Halverson (DFL – Eagan) to run for Dakota County Commissioner.

Three other members did not win the DFL endorsement and now face a primary in August.

- Rep. Ray Dehn (DFL – Minneapolis) is being challenged by Esther Agbaje
- Sen. Erik Simonson (DFL – Duluth) is being challenged by Jen McEwen
- Sen. Jeff Hayden (DFL – Minneapolis) is being challenged by Omar Fateh.

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