

2018 Minnesota Legislative Summary

The domino effects of 2017 cast a very large shadow over the 2018 legislative session. Governor Dayton's veto of the legislature's operating budget last year prompted a legal battle that went all the way to the MN Supreme Court and severely soured relations between GOP legislative leadership and the DFL Governor. Al Franken's resignation from the US Senate prompted Tina Smith's appointment as his replacement, which in turn caused the ascension of Republican state Senator Michelle Fischbach to the Lt. Governorship, prompting a lawsuit challenging her ability to keep her MN Senate seat while simultaneously serving as Lt. Governor. As if multiple court cases and liters of bad blood weren't enough, passage of the massive federal tax bill in the closing days of the year brought tax policy to the forefront again, re-opening old wounds from the legislature's 2017 bill, and adding a complicated issue to the short session's "must do" list.

The echoes of last year were most keenly felt when Governor Dayton vetoed the supplemental budget bill and tax conformity bill immediately after the 2018 session adjourned. Last year Dayton held his nose to sign spending and tax bills that were, in his view, flawed and took some flak from supporters for that approach. So it was not surprising when the Governor opted to veto the major bills of the 2018 session, which he also viewed as flawed, despite the inclusion of some of his own priorities. It was Dayton's last legislative session as Governor, providing an opportunity to solidify his legacy, but without a re-election on the horizon there was nothing he needed so badly to accept what he viewed as a bad trade.

Some doubted whether the Governor's resolve would hold. Failure to make decisions on federal tax conformity this session would mean tax increases for over 300,000 Minnesota families, major tax preparation headaches for all taxpayers next filing season, and administrative challenges for the state Department of Revenue. Would Dayton really veto a Tax bill, knowing the hefty price of doing so, just because he did not get what he wanted? Spoiler alert: he would - twice. With only a few weeks to go in the session he held a series of news conferences asking the legislature to pass an "emergency" increase of \$138 million in K-12 funding to address looming budget shortfalls in some districts. The issue became his top spending priority and he said he would not sign a Tax bill without the education funding. The new demand was not well-received by Republican legislative leaders, who were weary (and wary) of the Governor "moving the goalposts," something they accused him of doing regularly at the end of every session. They sent him a Tax bill without the K-12 funding and true to his word Dayton vetoed it – at an elementary school with a class full of kids yelling "veto!"

On the last day of session, Republicans took one more stab at a Tax bill. They sweetened the deal by adding some education funding and budget flexibility for school districts to their previously-vetoed bill and sent that to the Governor. They did not do the funding increase Dayton wanted nor did they address the larger issues he had raised with the Tax bill itself, and so he vetoed this attempt, as well.

At the same time, Governor Dayton vetoed the legislature's supplemental omnibus budget bill. That bill was a near-1,000 page behemoth, spanning the entirety of state government activity, from agriculture to transportation. Working on one, singular supplemental budget package is not unheard of – during non-budget years the amount of funds available to spend is often very limited making one bill more manageable and efficient. This year's version was exceptionally large and varied. Not only did it contain a significant amount of policy provisions, but also included nearly all of the year's priority issues – funding & policy changes to address the opioid crisis, elder care reform, school safety money, and funding to salvage the state's vehicle registration system (MNLARS) were all rolled into the omnibus budget bill.

Governor Dayton requested those priority issues be sent to him as separate bills but Republican leadership didn't oblige. They argued that kind of piecemeal approach wouldn't satisfy Dayton either, citing as an example his veto of the bill to reimburse deputy registrars for costs incurred due to MNLARS issues because it was not a comprehensive solution to the larger MNLARS problem. Regardless of your viewpoint, it is clear putting so many eggs in one basket did not pay off this session. The budget bill veto negated the progress made on dozens of issues, both large and small, and puts more pressure on the 2019 legislature to act.

Despite the myriad disagreements this year, all sides were able to come together on two significant bills. The second session of a biennium is typically a bonding year, though a package was passed last year to make up for no bill in 2016. Because of that 2017 bill it was unclear whether an agreement would come to fruition this session. The first attempt at a bill failed in the Senate but on the final day of session the House and Senate put together a package that was able to pass both bodies. The bill included \$825 million in GO bonds, \$416 million in trunk highway bonds, and \$80 million in appropriations bonds, in addition to some general fund & environment trust fund dollars, for a total of about \$1.4 billion. Governor Dayton signed the bill despite some objections. He also signed a significant public employee pension bill, after vetoing similar pension bills in 2016 and again in 2017, when the legislature attached local pre-emption language to the bill.

A handful of issues repeatedly brought people to Saint Paul this session to demonstrate and use their voices to influence public policy. The Parkland school shooting occurred just days before session began and increased the focus on both gun control and school safety issues. Groups urging action on gun control legislation were a regular presence at the Capitol. Two bills were heard in a House committee but no action was taken. Elder care reform advocates and citizens affected by the opioid crisis were also active on legislation, but both bills were victims of the omnibus budget bill veto. Minnesotans who lost friends and family in distracted driving

accidents were also present, especially towards the end of session, working (unsuccessfully) to pass a hands-free cell phone bill.

The #metoo movement also triggered a vigorous debate, and significant media attention, around Minnesota's sexual harassment laws. In response to last year's resignations by two state legislators, one House Republican and one Senate DFLer, the House formed a subcommittee to improve their internal sexual harassment policies and procedures. That work prompted House Majority Leader Joyce Peppin, a Republican, to champion a bill that would make Minnesota the first state in the nation to broaden the definition of sexual harassment by eliminating the "severe and pervasive" legal standard. Though introduced late in session the bill was swiftly passed through the House and was added to the supplemental budget bill. The Senate did not act on it and it was not included in the final budget bill as there was not ample time to work out a compromise to address concerns raised by various public and private employer groups. The lack of resolution on issues like these, which have passionate support and are driving activism, may have consequences in November. Regardless of the election results we should expect to see these issues again in 2019.

And about those elections...all 134 state House seats are on the ballot, as is the Governor and the other constitutional officers, all eight Congressional seats and both US Senate seats. With Minnesota's first open Governor's race in eight years it is expected to be a heated one, with Republican & DFL primaries likely. Some of the state House races, especially those in the suburban battlegrounds, may be decided by a few hundred votes. And now, due to state Senate President Michelle Fischbach's resignation last week to officially become Lt. Governor - and now Tim Pawlenty's running mate - we will also have a special election in Senate District 13. That election will determine the Senate majority, currently sitting at 33-33. Fischbach's decision, along with a surprise announcement from House Majority Leader Joyce Peppin that she will not run again, guarantee leadership changes even if the Republicans maintain their majorities.

The big question is who will be blamed for an unproductive session and be punished at the ballot box. There will be voters with Governor Dayton, who has never "seen a legislative session so badly mismanaged," as well as voters with Speaker Daudt who said that "this session wasn't a failure, our Governor was a failure." And there may be some with neither and want to throw them all out. Regardless, the months until November promise to be tumultuous and our airwaves and mailboxes will be flooded.

Following the August 14th primaries, Cook Girard will send clients our 2018 Election Guide that will provide information on Minnesota's congressional, legislative, & constitutional officer races.