



WEEKLY SESSION UPDATE

April 1, 2019

All eyes were turned to House and Senate leadership this past week as first the House DFL gathered to announce their budget targets, then to the Senate GOP, who shared their budget targets a few days later. The House outlined initiatives including education, children, and roads. “We know that children are carrying the stress to school,” Speaker Hortman said in her opening remarks at a press conference on Monday, “We can and should reach even more Minnesotans. We are unveiling a broad framework with honest investments to improve families.” Winkler said money has been taken away from children, school and roads. “If we want to have those things, he said, “we have to pay for it honestly. We are committed to doing it well. When we talk to Minnesotans, we hear that they care about their state and about their neighbors.”

Below is a quick summary of the targets:

- *The House budget targets increase FY 2020-21 general fund net spending by \$1.6 billion compared to the forecast*
- *The Senate targets increase FY 2020-21 general fund net spending by \$975M in FY 2020-21*
- *The Governor’s budget increases FY 2020-21 general fund net spending by \$1.3 billion*
- *The Senate does not propose any revenue changes in FY 2020-21*

There were concerned press questions about dissent from the GOP about a gas tax increase, to which the GOP responded later in the week on Thursday in their own press conference, where Senator Gazelka announced that the tax bill itself would be zero, instead being a tax conformity bill.

This did not sit well with the Democrats. “Raising taxes shouldn’t be our first priority, but we do need to make sure that we are supporting the quality of life, economic development, and infrastructure of our state, said Senator Franzen. “Their [Republicans] zero budget is a failure to invest in these children.” Other budget targets proposed by the GOP included Minnesota priorities they planned to achieve without raising taxes, including Elder care bills, Broadband funding, Public Safety and corrections officer safety, as well as Transportation fixes. They reiterated that they could do all of these things with no provider tax, no gas tax increase, no new sales tax or vehicle registration increases, and no fee increases.

Also on Monday, the GOP held a Press Conference on CCAP Fraud. There are 5 tenets of their proposal. These include an increase consequences for committing fraud, provider controls, stating that we need better controls to keep fraud from occurring in the first place, Investigations and Prosecutions; increase in pursuing fraud allegations, Eligibility reforms, requiring an enhanced eligibility check by the

Department of Human Services to ensure qualified recipients, and oversight of the program to ensure proper compliance.

On Wednesday during the House Floor Session, Representative-Elect [Nathan Nelson \(11B, R\)](#) was sworn into office. Next week on Wednesday, April 3rd at 7:00 p.m. Governor Tim Walz will deliver his first State of the State Address before a Joint Convention of the House and Senate from the House Chamber in the State Capitol.

Budget Confusion? Only Time will Add Clarity

When the initial targets were released, two major news outlets and the House's own media publication misreported the total spend amount by the House DFL. Although this was corrected quickly, this underpins some of the widespread head scratching that accompanies the budget target release each year. These numbers, although appearing similar between the House, Senate, and the Governor's recommendations, on paper, were immediately taken with caution as several fiscal experts pointed out that these numbers were not necessarily the best indicators of the spending bills to come.

As the Minnesota Center for Fiscal Excellence points out:

- *The House and Senate organize their committee jurisdictions differently making direct comparisons a little more challenging.*
- *The Senate frames its budget changes using current biennium spending as a baseline while the House uses forecasted current law spending for the coming biennium.*
- *Finally, the targets themselves are net expenditures -- spending plus or minus changes in revenue. That is necessary for internal budgeting purposes, but revenue increases can have the counterintuitive effect of appearing to reduce general fund spending.*

In addition, the budget target number don't show how existing funding is shifted or cut to create new sources of funding on the bottom line. Over the course of the next week or two, several major omnibus finance bills will be pieced together and will provide the missing information within each body's budget framework.

Additional budget reading: [Session Daily article](#)
[Star Tribune article](#), [Star Tribune article #2](#)
[Pioneer Press article](#)

Second Deadline

Friday at midnight marked the second legislative deadline, which explains why many committees met Friday with packed agendas. This self-imposed deadline is for committees to act favorably on bills, or companions of bills, that met the first deadline in the other house—meaning that a vast majority of the thousands of bills introduced will sit in their assigned committees for another session. Some of these bills might be lucky enough to have the rules suspended to take them back up, but for the most part, only bills that make it through Friday's deadline have a shot at passing.

To note, these deadlines do not apply to the House committees on Capital Investment, Ways and Means, Taxes, or Rules and Legislative Administration, nor to the Senate committees on Capital Investment, Finance, Taxes, or Rules and Administration. We are expecting to see a handful of these finance bills next week at the earliest. After that, the third deadline comes just before the legislative

spring break on April 12th, requiring committees to act favorably on major appropriation and finance bills.

Physician Noncompete bill

On Thursday, the House Judiciary committee heard HF 557 (Mann), which would prohibit physician noncompete agreements. Rep. Mann stated that if a provider wants to relocate their practice, they also have to relocate their families, and that noncompetes are not in the best interest of the physician or the patient. A representative from the MN Hospital System and Centracare Health testified against the bill, stating that the legislation is overbroad, and that it will hurt rural Minnesota. The bill was passed on a 10-5 vote and was sent to the General Register. An excerpt of member discussion is below:

Scott: to me, we are entering into what people can/can't have in a contract. Why would we want to take a tool out of the toolbox, people can say whether they agree or don't agree to a contract. This bill is probably not needed. You can say I will not sign this document if there is a noncompete in it.

Mann: although physicians are smart, they are not lawyers. They don't fully understand what a noncompete is. This about protecting physicians and patients. At some point in time we need to step in and protect patients. Small step to do that.

Her: every time a physician leaves, you have to re-educate them on your history. This helps retain doctors. The questions about the need for this bill... there are less people going into medicine, so there is a shortage of doctors, is that correct?

Mann: yes, a lot of barriers and also to quality providers. People graduate with \$200-300k in debt. At the end of the day we are not serving our patients well.

Her: the only reason noncompetes existed in other industries was so we didn't take clients, I'm confused why there is opposition to this.

Mann: no one here is arguing for the patient.

Lucero: are you aware of anyone entering into a noncompete against their will?

Mann: I have known physicians entering into these contracts entering into them without knowing the full consequences.

Lucero: there are noncompete clauses in other fields as well (IT). Has a reality of the professional becoming a competitor in the field

Hassan: the biggest losers in this conversation are the patients.

Johnson: Duluth, a Class A city, is not rural Minnesota. In greater Minnesota most patients are on medical assistance of some type and the noncompetes are there to keep the doctors there as long as possible to provide services to the communities so they don't leave to metropolitan areas. Those elderly cannot afford to get to metropolitan to get specialty care. They can't compete with big cities. This is just going to make it worse.

Cantrell: are there situations where the doctors are asked to sign a noncompete and are forced to sign?

Xiong: Focus should be on patients not on lawyers

Considine: bill really gets down to the free market, strengthens competition in the marketing field.

Scott: I don't think either side of the aisle is saying this isn't about patients. This will hurt access for patients in rural Minnesota in particular. The free market is based on contracts. This has been mischaracterized by the other side, I think we have a problem here that is really not a problem. A physician can work through a contract.

Chair: I was looking forward to the opposition bringing forward a reasonable alternative. We pose limits on contracts all the time. This body routinely restricts contracts.

Mann: this is about patient care and continuity of care. I am standing up for patients.

House Health and Human Services Finance

On Tuesday, March 26th, the House HHS Finance committee heard a number of bills, including Rep. Alice Mann's [HF 728](#) which would license and regulate PBMs, as well as [HF 485](#) (Howard), which would create an insulin assistance program. Full committee notes are attached.

Drug Cost Transparency Bill

Last week, the Prescription Drug Transparency Act ([SF 1098](#)) passed the Senate Health and Human Services Committee. Committee discussion and testimony ran late on the bill, and it was amended several times. Notes from the hearing are below:

SF 1098 (Rosen) Prescription Drug Pricing Transparency Act

SF 1098 is the Prescription Drug Transparency Act. The price for name brand drugs has risen more than 200% since 2008.

This bill requires drug manufacturers to provide greater transparency of drug prices and asks the plans to provide greater transparency in their filings.

Sen. Rosen moved the A9 author's delete-all amendment. The amendment was adopted. The original bill was created by a large coalition of stakeholders and was a little clunky. The A9 leaves the intent of the stakeholders intact but reads more smoothly.

SF 1098 requires price transparency for existing drugs, new drugs, and newly acquired drugs:

- **Existing drug increases:** Companies with a price increase must provide the following - Name of drug, price, net cost increase, factors that contributed to the increase, name of generic versions, prices over the last five calendar years, research and development costs, the total revenue for the drug over the last 12 months, net profit, any financial assistance given to patients, patent expiration date, and the 10 highest prices paid for the drug in other countries.
- **New Drugs:** Must provide the following- price, if the FDA granted a breakthrough or priority review status, manufacturer name, type of marketing, research and development cost, and patent expiration date
- **Newly-Acquired Drugs:** Refers to drugs new to a company that have increased the price by \$100 higher than the previous manufacturer: when price increase: Price immediately prior to acquisition, name of manufacturer that sold drug before, date of acquisition and acquisition price, price over the previous 5 years, and any agreements the manufacturer may have to delay availability of a generic version of the drug.

MDH shall publically post or contract with a third party or the Commissioner of Commerce to create a form that manufacturers can use to submit that information.

- Manufacturers would face a civil penalty of up to \$10,000 for falling to comply.

The bill also has MDH submit a report to the legislature regarding health plan transparency: They must list the 25 most frequently prescribed drugs, the 25 most costly drugs, the 25 drugs accounting for greatest increase in spending, and the impact of prescription spending on premiums.

Committee Amendments:

Sen. Wiklund moved the A10 amendment.

The amendment deals with insulin availability: for those on high deductible health plans or are uninsured may not be able to afford insulin. This amendment would provide information of lower cost insulin to people when they cannot afford their current medication.

- Would require the Board of Pharmacy to provide a website that would provide information regarding patient assistance programs
- Bill requires doctors, nurses, and pharmacists to be informed of the website

Sen. Jensen: This amendment makes this bill so much better – Having materials posted to allow pharmacists and providers to look in one place to see where insulin is cheaper? This is exactly what we need.

Sen. Rosen: Yes, this is a good amendment.

The A10 amendment was adopted.

Sen. Draheim moved the A12 amendment.

Sen. Draheim: The amendment requires all pharmacy rebates received by a health plan company for individual and small group plans must be used to reduce health insurance premiums for individual and small group health plans.

Senate Counsel: Section 3 of the amendment is already in SF 1098.

Sen. Jensen: This is a friendly amendment.

The A12 amendment was adopted.

Sen. Wiklund moved the A11 amendment.

The amendment has to do with emergency refills. If a patient needs a refill and can't get one because the prescription is not current and the prescriber is not available to approve the refill, the pharmacist has to decide whether they can refill the drug or not.

- The amendment allows pharmacists to provide an emergency refill if they feel that it is necessary. This ONLY applies to drugs that are essential to the life of the patient.

Sen. Rosen: What did the medical community think of this language?

Dave Renner, MN Medical Association

The way that this is drafted is ok with us – we normally have concerns about the power of a prescriber vs a pharmacist, but we are comfortable with this language because this is limited to a one-time renewal.

Cody Wiberg: Executive Director, MN Board of Pharmacy:

This language is actually in our policy bill. We currently tell pharmacists that they need to at least give an individual a few days supply if not having the medication could damage the individual's health. We support this amendment.

The A11 amendment was adopted.

Testimony:

Dan Anderson: Senior Manager, National Multiple Sclerosis Society

Supports. There is no cure for MS and it is a non-fatal disease, so people can live their whole lives with it. Having affordable medication for one's lifetime is very important to these individuals.

MaryJo George: AARP

Supports. Our members consistently tell us that they cannot afford the medications they need. The rising costs of drugs are unsustainable. While this bill does not provide immediate relief for our members, it does help us begin to understand the factors creating these high prices.

Kristina Moorhead: PhRMA

The companies that make up PhRMA have invested more than \$600 billion in new lifesaving treatments. We want to answer any questions you may have.

Judy Cook: Association for Accessible Medicines (Generics and Biosimilars Industry)

I will take your concerns back to my client for review. AAM believes that transparency in drug pricing is important, but this bill's specifics may provide a burden to the generic industry, which is what is providing competition to the expensive name-brand drugs.

- We are also concerned with the reporting of new drugs because as we are moving to more specialty drugs to market, they are coming in at a higher price point. The generic of one of our drugs is \$1500, the brand is over \$6,000. In some cases, a generic price increase would trigger a reporting requirement and a brand wouldn't, and you would lose that comparison information.

Sen. Abeler: What are PhRMA's thoughts on this bill?

Moorhead: I am encouraged by the amendments added and the narrowing of the scope of the language.

Sen. Jensen: The MCRA sent a letter opposing this bill. They say that it will do little to help patients and will stifle future innovation. What are your thoughts on this?

Moorhead: They were responding to the original bill and not the bill as amended today.

Sen. Jensen: We spend 1.5 trillion in this country on retail meds in the country. This bill should have even more teeth than it does now. This should pass 67-0 in the Senate.

Sen. Franzen: I do support the bill. One clarification regarding an amendment: The retail value of the dry eye medication I just got was \$1900. I was lucky and paid \$15. This language needs to be even clearer and have drug companies show how they provide rebates and coupons.

Sen. Benson: I agree that this is a good bill. I do have concerns about trade secret exposure – companies shouldn't have to disclose sensitive information about how they are creating their drugs.

Sen. Rosen: Thank you all for your work. We will force manufacturers to show some of their pricing system. The bill does not prevent price increases, but does require companies to report the reason why the prices are being increased.

SF 1098 was referred to Judiciary and Public Safety Committee.

The Fight for the Affordable Care Act

via news release from Attorney General Keith Ellison

VERBATIM: “Minnesota Attorney General Keith Ellison joined a coalition of 21 attorneys general, led by California Attorney General Becerra, in filing an opening brief in *Texas v. U.S.* in defense of the Affordable Care Act (ACA) and the healthcare of millions of Minnesotans and tens of millions of Americans. The brief, filed in the U.S. Court of Appeals for the Fifth Circuit, argues that every provision of the ACA remains valid. It also details the harm that declaring the ACA invalid would have on the tens of millions of people who rely on it for access to high-quality, affordable healthcare, as well as the broader damage that it would do to the nation’s healthcare system...The states’ opening brief was filed yesterday about three hours before the U.S. Department of Justice letter informing the Fifth Circuit that it is entirely abandoning its defense of the Affordable Care Act.

“Preserving the Affordable Care Act is for some people a matter of life or death, and for millions of others a matter of whether they can afford healthcare at all,” Attorney General Ellison said. “The ACA was a big step forward in helping people afford their lives and live with dignity and respect. It was also the greatest step forward in expanding access to affordable healthcare since Medicaid, and it held insurance companies accountable, too.

Drug Price Transparency Doesn't Lower the Cost of Prescription Drugs

via the Freedom Foundation of Minnesota

Some Minnesota policymakers believe our state should follow the lead of California, Vermont and Oregon in demanding “price transparency” for prescription drugs. These state lawmakers believe that price transparency will somehow lower the costs of medications for consumers. These legislators have introduced legislation that would force pharmaceutical companies to publicly post future price increases on a government-run database **60** days prior to the date the new prices become effective.

For transparency to be meaningful, it has to provide a benefit to the consumer. Just because state government forces pharmaceutical manufacturers to post the list price of a drug doesn’t make it meaningful, helpful or accurate for consumers. That’s because the list price of a drug isn’t what most Minnesotans actually pay for that prescription. It’s only after your insurance company gets involved in that transaction that the price of that drug becomes beneficial to the consumer – that’s the price that matters.

See the attached document for the full piece on this issue.

MN Democrats and Republicans want to hold Big Pharma accountable, but disagree on best approach

Via Pioneer Press

Minnesota lawmakers are taking steps to rein in the costs of prescription drugs and hold pharmaceutical companies accountable. But Democrats in the House and Republicans in the Senate have not come to terms on the best ways to do it. At a press conference at the State Capitol on Tuesday, House Democrats detailed a series of bills and said Republicans in the Senate have given them little airtime. They stood next to several Minnesotans whose lives have been affected by the soaring costs of insulin and other prescription drugs.

Additional articles of interest

Session Daily: [House passes sweeping opioid legislation with contentious funding mechanism](#)

Bill introductions of interest

[HF 2715](#) (Cantrell) – Hospital billing transparency within a certain time required
[SF 2667](#) (Abeler) – Health care access fund repeal; appropriations