



WEEKLY SESSION UPDATE

February 1, 2019

With the fourth week coming to a close, we are now 20% through the legislative session. The Senate was closed for business on Wednesday as the polar vortex prompted committees to cancel hearings and many legislators stayed in-district. The House, on the other hand, stayed open and several committees heard important issues such as the plans to combat the opioid crisis and bills expanding penalties for sexual assault and misconduct. There is also a lot of buzz surrounding the bipartisan recreational marijuana legislation introduced by Sen. Melisa Franzen, Sen. Scott Jensen and Rep. Mike Freiberg that includes components for decriminalization and legalization. Sen. Jensen noted, however, that he only signed on to the bill in order to facilitate “robust discussion” and does not plan to vote in favor of the bill as introduced.

In other news, the House and Senate have agreed to committee deadlines that will impact the flow of bills through committees over the course of the next few weeks. See the dates below:

- First deadline: March 15th, 2019 at 11:59 p.m.
 - Committees must act favorably on bills in the house of origin
- Second deadline: March 29th, 2019 at 11:59 p.m.
 - Committees must act favorably on bills, or companion bills, that met the first deadline in the other house
- Third deadline: April 12th, 2019 at 11:59 p.m.
 - Committees must act favorably on major appropriation and finance bills

Reinsurance

Legislators in the House Commerce committee heard testimony from the Department of Commerce Commissioner Steve Kelley and the Minnesota Council of Health Plans on the impacts of reinsurance and insight into what the future holds for this program. To start off the hearing, Commissioner Kelley gave an overview of the individual insurance market and the trends the department is seeing based on 2018 data. He noted that there was a decrease in the number of enrollees in the individual market, but that the market had stabilized due in part to reinsurance. Other factors were lower utilization, lower costs, and the strong state economy. He also commented that he did not know if the Governor would be including Reinsurance funding in the administration’s budget.

Kathryn Kmit from the Minnesota Health Plans presented next and gave an overview of the impact of reinsurance on health plans and the necessary timeframe needed to have the rates adjusted accordingly for 2020. She encouraged the committee members to not only reauthorize reinsurance, but to extend the life of the program to help health plans add even greater stability to the market.

While Chair of the Commerce committee Rep. Laurie Halverson has introduced legislation to continue reinsurance, it’s future remains uncertain without the governor’s sign-off.

Opioids

Opioids were once again much of the focus this week, with the House HHS Policy Committee hearing [HF 400](#) (Olson), a bipartisan bill that contains language related to: opioid product stewardship; health plan company requirements; prevention and education initiatives to address opioid addiction; intervention, treatment, and recovery initiatives to address opioid addiction; licensure of pharmacy benefit managers; and appropriations for opioid initiatives. The committee heard from many testifiers, including members from the medical community, families and individuals affected by the opioid crisis, with overwhelming support. There were a couple of testifiers that shared concerns with the

bill, including the wholesaler distribution tax and licensing fee. The bill was passed and re-referred to the House Commerce committee.

Additional reading:

- [Pioneer Press – Fee on opioid makers to fund addiction fight is moving at the capitol](#)
- [Star Tribune – MN lawmakers: Tax drug makers over opioid crisis](#)

PBM Presentation to Senate HHS

On Thursday, the Senate HHS Finance and Policy committee had a presentation from Melodie Schrader of the Pharmaceutical Care Management Association (PBMs). She gave an overview on the role of PBMs in the health care system, stating that PBMs initial purpose was to process claims, but as drugs became more expensive and complex, they evolved to coordinate pharmacy benefits to lower costs, increase outcomes, increase access to drugs, manage high cost specialty medications, and negotiate rebates and discounts. Member questions followed, focusing on reimbursement, negotiating, and drug pricing.

The committee then heard [SF 278](#) (Jensen), the Minnesota Pharmacy Benefit Manager Licensure and Regulation Act, which would require PBMs to obtain a license. Currently only four or five states call for licensure in the US. The bill also calls for PBMs to have a fiduciary duty and to release cost information, which is in direct alignment with the committee’s goal of increasing cost transparency across the industry. Testifiers from pharmacies and the MN Medical Association spoke in support of the bill, while a representative from the MN Chamber of Commerce shared concerns, including limiting the ability of PBMs to come up with different arrangements with plan sponsors, as well as limiting some of the PBMs’ cost containment tools.

Senate Special Election

In the final campaign finance report before the SD11 special election next Tuesday, Democrat Stu Lourey reported having raised over \$60k, with nearly \$44k spent and over \$16k on hand. Republican Jason Rarick reported raising just over \$49k, with \$28k spent and \$21k left on hand. Legalize Marijuana Now candidate Sparky Birrenbach only filed an affidavit. The numbers that will be most interesting, however, are the amounts of outside spending that went into this race that was just over a month long. Check out [this MPR article](#) for more information about the race.

This quick race has also highlighted a major flaw in the state’s laws governing special elections which requires a special election to be held within 35 days of the vacancy. This timeframe is too tight to allow for mail in ballots to be distributed by election officials and returned by voters. During the primary, nearly 400 ballots went uncounted and the same is anticipated for the special election on Tuesday. Secretary of State Steve Simon is hoping to remedy that at the legislature this year.

Midterm Spending

Today, final numbers came out for the 2018 midterm campaign spending. Of particular interest is the amount of money that went into the single special election in the Senate for former GOP Senator Michelle Fishbach’s open seat.

DFL:

- DFL Party of MN \$15.9M
- House DFL \$5.275M
- Senate DFL \$2.3M

GOP:

- GOP Party of MN \$933,853
- House GOP \$3.087M
- Senate GOP \$793,249

Outside Spending:

- Total Governor’s Outside Spending \$18.5M
- Total AG’s Outside Spending \$2.15M
- Total House Outside Spending \$9.34M

- Total Senate Outside Spending \$3.18M

[A First in Over a Century: Only One State Has a Split Legislature](#)

Earlier this week, the New York Times profiled the unique situation taking place in Minnesota politics. Minnesota holds the only split legislature in the country many are looking to the dynamics unfolding here as a true test of bipartisanship in an increasingly polarized country.

Via New York Times

Days after nearly dying during cancer treatments, Hunter Cantrell, a 23-year-old university student, made what seemed a quixotic decision: He would run for the Minnesota House of Representatives to plead for affordable health care for all. To the shock of nearly everyone, Mr. Cantrell flipped a Republican-held seat in the suburbs of the Twin Cities, and this month, he became one of nearly 1,700 candidates who took the seat of an incumbent in state legislatures across the nation. ... Republicans continue to hold majorities in most of the nation's state capitals, as they have in recent years, but Democrats now control six new legislative chambers, including the Minnesota House of Representatives. Along the way, though, Minnesota - where Republicans hold a narrow majority in the Senate - became the only remaining state in the nation where control of a legislature is divided.

[Marijuana Legalization Legislation](#)

On Monday, Rep. Mike Freiberg and Sen. Melisa Franzen held a press conference to introduce their bills ([HF 420/SF 619](#)) that would legalize and regulate sales of cannabis. Notes from the press conference are below:

House/Senate DFL Press Conference Introduction of Bill Outlining Legalization of Recreational Cannabis 1/28/19

Sen. Franzen: I am proud to author this bill in the Senate. This bill is a win-win situation: it removes the need for the black market to exist and the state can minimize the public health and safety risk by legalizing and regulating cannabis.

Overview of Bill

- Responsibly regulate the sale of marijuana
- Prohibit use for those under 21
- Prevent impaired driving and study dosage amounts
- Uphold the Clean Air Act
- Protect landlord rights to prevent smoking on their property
- Keep local control intact on regulation
- Educate the public and teens on cannabis use
- Dedicate funding to communities that were disproportionately affected by the prohibition
- Expunge past violent offenses from the prohibition
- Governor Walz indicated that he would sign the bill

56% of Minnesotans favor legalization

Rep. Freiberg: House author

This is an issue that is moving incredibly fast around the country. We don't want cannabis to become another "Big Tobacco" situation where companies market it to kids with different flavors and advertising campaigns. We need to step in front of this issue and proactively regulate it in order to keep the public educated on marijuana use. The bill will likely go through many changes as it moves forward.

Sen. Jensen: 3 months ago, I could not have imagined standing here supporting this bill, but after hearing from so many of my constituents that contacted me about this issue, I started doing research and have come to the conclusion that it is time to address this topic.

- From a legislative perspective, things happen incrementally. We currently have over 20 conditions that can be treated with medical cannabis, and 75% of my patients would qualify for a medical marijuana prescription.
- For some patients with autism, medical marijuana has been nothing short of a miracle. If a person really wants medical marijuana, they can probably get it already.

- One of the first hemp agricultural initiatives is taking place in my district.

Press Questions

Q: Some sponsors of opioid legislation feel that you are sending a mixed message by trying to limit opioid use but legalizing marijuana.

Sen. Jensen: I do not believe these two issues conflict. I have seen many patients get off of opiates by using marijuana and other analgesics. I had a town hall this weekend in my district, and I asked the attendees their thoughts on legalizing marijuana. Over 90% said it was time to legalize.

Q: A few weeks ago, you stated that you would like to see a study done on this issue first before legislative action was taken.

Sen. Jensen: Sen. Franzen and I would agree that whatever study we can do as this issue moves incrementally forward would be a good thing. Whether or not we need to do a new study or glean information from old studies remains to be seen. There are already some very good studies out there on this topic.

Q: How hard is this going to be to get hearings in committees?

Sen. Jensen: I suspect that all three of us up here today will have to do quite a bit of negotiating

Q: Will this bill be a companion piece to the idea of doing a constitutional amendment on legalization?

Rep. Freiberg: This is not a constitutional amendment. Any amendment that goes to the people needs to first get passed by the legislature anyways, so we feel that it just makes more sense to simply legalize it. A lot of voters have constitutional amendment fatigue, and I'm not convinced that the topic of cannabis belongs in the constitution, as the constitution is more about protecting the rights of people and outlining the role of government.

Sen. Jensen: Legalization needs to be partnered with prevention. We need to discuss regulation so that I can stop seeing people in my office that bought bad marijuana on the black market where they didn't know what was in it.

- If this were legalized we would see the price drop to a third of what it is now
- Legalization doesn't mean it is good for you – tobacco and alcohol are not good for you either.
 - Using recreational marijuana is not “good for you” in a health sense unless it is treating a condition. I know that many of patients could benefit from medical marijuana but I have chosen not to prescribe it myself – so I refer them.
- We could step away from some addictive drugs like Xanax and use marijuana instead.

Q: Just because something is legal doesn't mean that it is perfectly safe for consumption.

Sen. Franzen: Of course. We are going to take time to work through the regulatory rule-making process to make sure that we can make every aspect of this bill as safe as we can. This bill requires us to figure out to regulatory process by 2021 and then be available for sale by 2022.

Q: How important is the expungable portion of this bill? Does the decriminalization need to happen hand in hand with legalization or can it happen separately?

Sen. Franzen: Yes, this needs to happen hand in hand. The people that have been hurt by the prohibition are the people that need to see justice restored.

Q: What about the “Grow your own” Movement?

Sen. Franzen: Our bill allows people to grow a maximum of 4 plants. This will require licensing, regulation, and education. We don't want every home to have a greenhouse.

Q: What about employers that currently screen for THC for workplace safety requirements?

Sen. Franzen: Employers need better tools to figure out who is working while impaired. We need to ensure workplace safety. People still need to be able to drive and operate machinery- Our bill will not change any of that.

- If there is a constitutional amendment in 2020, then legalization could occur right away

Sen. Jensen: Regarding measuring impaired driving: there is a saliva test to see how much cannabis is in a person – 25-28 days is how long it takes to get out of your system. We do need to study this issue further.

Rep. Freiberg: We know impairment is an important issue to address. At this point, we will dedicate some funding to equity considerations for people that have been hit hard in the war on drugs, and most of the rest of the money would go to the general fund because we thought it was too early to go to start appropriating to education, transportation budgets, etc.

- We will also dedicate funds to peace officers to train them on how to discern cannabis impairment.

Q: Can you go into more detail on the expungement piece of this legislation?

Sen. Franzen: We will be engaging with the Attorney General's office on this with the goal that people who were affected by the prohibition before August 1, 2019 would be expunged

Q: What are the first committee stops for the bill?

Rep. Freiberg: I assume it will get referred to the House HHS Policy Committee.

Sen. Franzen: I do not know where it will go in the Senate. We are at least going to ask for an informational hearing.

[Top MN health care execs: How the industry needs to change, and why it should halt construction](#) (full article attached)

Via Minneapolis/St. Paul Business Journal

Minnesota is one of the best places in the nation for health care — the "Silicon Valley of health care," in fact, according one participant on the Minneapolis/St. Paul Business Journal's annual Health Care Forum last week. However, the industry has major challenges facing it in Minnesota, including rising costs, bills and pricing models that consumers can't understand, people ignoring efforts to help them stay healthy, a continuing race to build new facilities, and aggressive, innovative new competitors ranging from Google and Amazon to Minnesota's own UnitedHealth Group Inc. Five panelists representing UnitedHealth, CentraCare Health, Blue Cross and Blue Shield of Minnesota, Gillette Children's Specialty Healthcare and Twin Cities Orthopedics spoke about these and other issues on a panel moderated by former Business Journal reporter Katharine Grayson.

Bill introductions of interest

[HF 400](#) (Olson) – Opioid Stewardship Advisory Council, opioid stewardship account, and opiate product registration fee established; opioid addiction prevention, education, intervention, treatment, and recovery provisions modified; and money appropriated.

[HF 420](#) (Freiberg) – Cannabis; cultivation, consumption, use, and possession of products and accessories allowed; regulation for commercial purposes provided; Clean Indoor Air Act and controlled substance laws modified; rulemaking authorized; certain sales taxed; crime expungement provided; and money appropriated

[HF 440](#) (Morrison) – Breast cancer screening procedures coverage required

[HF 442](#) (Gruenhagen) – Charity health care services deduction allowed, and informational reports provided

[HF 449](#) (Bennett) – Medical facilities in underserved areas exempted from certain sales and property taxes

[HF 465](#) (Liebling) – Medical facilities in underserved areas exempted from certain sales and property taxes

[HF 557](#) (Mann) – Physician-patient relationship protected by prohibiting noncompete agreements

[HF 559](#) (Pinto) – Provider-patient relationship required in order to make ophthalmic prescriptions

[HF 629](#) (Halverson) – Minnesota premium security plan funding operation extended, and reporting requirements specified

[HF 630](#) (Lislegard) – Opioid addiction prevention, education, intervention, treatment, and recovery provisions established; advisory council created; and money appropriated

[SF 502](#) (Klein) – Controlled substance purchaser valid photographic identification (photo ID) requirement for purchase

[SF 544](#) (Housley) – Ophthalmic prescriptions provider-patient relationship requirement

[SF 545](#) (Mathews) – Optometrists legend drugs administration limitations removal

[SF 583](#) (Johnson) – Temporary license suspensions and background checks for certain health-related professions modification

[SF 584](#) (Johnson) – Allied health professions conversion to a birth month renewal cycle authorization

[SF 619](#) (Franzen) – Cannabis cultivation, consumption, use, and possession authorization, regulation, taxation, and clean indoor act modification; controlled substances act and offenses expungement

[SF 648](#) (Draheim) – Pharmacy legend drugs collection system requirement

[SF 682](#) (Clausen) – Council of health boards study and recommendations on increasing access to clinical experiences through the use of technology requirement

[SF 684](#) (Klein) – MinnesotaCare Buy-In Option health plans establishment

[SF 719](#) (Klein) – MinnesotaCare purchase option for individuals whose income is greater than the income eligibility limit federal waiver request

[SF 720](#) (Klein) – MinnesotaCare Buy-In Option establishment

[SF 722](#) (Hayden) – For-profit health maintenance organizations two percent premium revenue tax payment clarification

[SF 751](#) (Rosen) – Opiate epidemic response; registration fee; response advisory council; response account; appropriation; provisions modifications