

# Capitol

## Notes



THE LEGISLATIVE AND POLITICAL NEWSLETTER OF THE  
MN INDEPENDENT INSURANCE AGENTS & BROKERS ASSOCIATION

### MIIA Legislative Update - 2017 Session

The 2017 Minnesota legislative session started very strong but went out with a whimper at midnight on the constitutional date for adjournment, May 22. The legislature had passed five consensus spending bills, but these five bills only represented 15 percent of the \$46 billion state budget. Governor Dayton and Republican legislature leaders eventually reached a tentative agreement on the remaining budget bills but would need a short "overtime" session of the legislature.

The governor called a special session starting at 12:01 a.m. on Tuesday, one minute after they adjourned the regular session. The agreement gave the negotiators till 7 AM to work out the particulars of the five remaining spending bills, tax and capital investment bills that were the agenda of the special session.

When 7 AM came without agreement, the legislature veered into uncharted territory. For three and half days, legislators, lobbyists and frequent groups of protestors filled the capitol rotunda with little to do other than wait for the back-room negotiations to be completed. After 75 hours of negotiations, the state legislature passed the latest versions of the five remaining spending and adjourned the special session.

On May 30, the governor reluctantly signed the remaining spending bills, the tax and capital investment bills. In signing the bills, he indicated his continued opposition to several provisions in these bills but said he signed these bills to avoid a government shut-down. He "requested" that the legislative leaders bring members back for another special session to address his concerns. As retaliation for a "poison pill" in the tax bill that forced him to sign the bill to assure funding for the department of revenue, Governor Dayton line item vetoed the appropriations for the House and Senate.

Republican leaders indicated they would not return for a special session, since the bills funding government were now enacted and the state budget set. They also indicated that they would take the governor's veto of their funding to the courts. So, our partisan politics will continue for another couple of months both in the courts as well as the court of public opinion. Let the blame game begin.

Here is a brief summary of the legislation of interest to the association this session.

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Two major pieces of legislation were passed early in the legislative session. Both new laws relate to the collapse of our individual health insurance marketplace.

A \$325 million premium relief program was enacted in the first weeks of the session to give nearly 120,000 Minnesotans who purchased individual health insurance a 25% premium rebate. This applies only for purchases already made during the 2017 open enrollment period. I have learned that this entire amount was not spent since some Minnesotans did not apply for the rebate. Approximately \$16.5 million of unspent funds were directed to health and human services spending.

The legislature created a new \$542 million reinsurance pool for the individual health insurance market that was designed to reduce potential health insurance premiums for 2018 and 2019. Reinsurance would kick in when an individual has exceeded \$50,000 in claims costs and continue until individual claims costs meet a \$250,000 threshold. The Department of Commerce has estimated that reinsurance at this level could result in a 25% premium reduction. To take effect the reinsurance pool would need the approval of the federal government.

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The Governor wanted the state's health plans to provide assurance that if they participated in government funded reinsurance they would continue to write health insurance in the individual market. When those assurances were not forthcoming, Governor Dayton refused to sign the bill, instead allowing it to become law without his signature.

A major insurance fraud proposal was enacted. It would expand the definition of insurance fraud covered under the Commerce Department's administrative penalties to include not only actual fraudulent acts but substantial acts of attempted fraud. Auto theft was expanded to include auto-related theft. The Department is given the authority to order restitution to insurance companies for the cost of fraud investigations.

The omnibus tax bill passed by the house and senate during the special session contains MIIAB supported language that tells the Department of Revenue they can no longer use the location of an individual's financial advisor in determining residency for state income tax. Other items of interest in the tax bill include:

- Increases the amount exempt from MN estate tax from \$2 million to \$3 million in four steps with the maximum reached in 2020.
- Allows for a deduction or tax credit for contributions to 529 college savings plans.
- Freezes commercial property taxes at 2018 level and exempting the first 100,000 of commercial-industrial property from taxes.

The estate tax exemption and the freezing of commercial property tax rates were two of the five objections the governor cited in his signing/veto announcement on May 30. The other objections were a decrease in cigarette and cigar taxes, prohibition of drivers' licenses for undocumented immigrants and new teacher licensing provisions. These will remain law unless the governor can convince, or extort the legislature into a special session to change them.

A new law will curtail so-called drive-by lawsuits against business for not meeting "reasonable accommodations" for people with disabilities. The governor has signed this bill aimed at predatory lawsuits from unscrupulous lawyers. Businesses would now be given 60 days to respond to any architectural barrier before going to court.

Another industry bill has been enacted and signed into law. It allows a life insurer to limit payment to policy beneficiaries if the insured's death occurs as a result of the insured's involvement in a terrorist act. Conviction of a crime is not necessary, just the preponderance of the evidence that the insured was furthering terrorism. The life insurer would be required to return paid premium to beneficiaries but not pay death benefits that would be due under the policy.

The law passed two years ago that gives individuals the right to choose the agent of their choice when purchasing individual health insurance was amended to assure that appropriate commissions are paid to the selected agent. Previously the law limited commissions to the sale of "qualified" health insurance products, those approved for sale by the state health insurance exchange. The law was extended to include any individual health insurance sold in the state including those sold outside MNsure. The law is effective as of January 1, 2017.

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It seemed to me that a special session of the state legislature was entirely predictable. The 2016 elections giving Republicans control of both the House and Senate under the final term of a Democratic governor set the stage for the brinkmanship that led to another special session.

This is the 12th special session since 2001. Minnesota voters' penchant for divided government will likely bring more special sessions in the future.

Yet, Governor Dayton's attempt to shut-down the legislature to get them to acquiesce to his demands is unprecedented. I have no idea what happens next.



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