

The Second Regular Session of the 128th Maine Legislature adjourned during the evening of Wednesday, May 2nd. Normally this step signals completion of all regular legislative business, but this year it did not. Instead, an array of time-sensitive work was carried over en masse so that it can be addressed in a special session. The volume, variety, and urgency of the remaining work leads many to expect that a special session is likely to follow.

Throughout the session, hot-button items like funding for Medicaid Expansion enacted by a 2017 referendum and tax conformity (with the Trump Administration's federal tax changes) were considered partisan priorities and thus bargaining chips in achieving a spending deal. Meanwhile, crucial funding for employers of low-wage direct health care workers, including providers of long term care services for the elderly and services for those with intellectual disabilities, were widely supported and seemed to be definite parts of an eventual bargain. The ability to accommodate these spending and tax reform proposals was greatly enhanced in March when revenue forecasters projected a budget surplus of \$140 million. Nevertheless, agreement proved elusive as Democrats weighed their willingness to accept tax conformity measures proposed by the Governor, and many Republicans balked at funding for Medicaid Expansion.

As committees worked throughout the spring the Special Appropriations Table swelled with spending bills, the Legislature having already carried over several dozen from last year. In addition to spending bills, the heavy load of Appropriations Committee work also included several bonds. However, only minor bills with unanimous support had been reported out and the Committee had met only a few times amid ongoing negotiations by leadership while the statutory adjournment deadline approached. As a result, the remaining appropriations bills constituted the bulk of outstanding work when that deadline arrived on April 18th.

The minority House Republican caucus refused to support an extension order, a procedure regularly employed late in a session as high-stakes deals take shape. Requiring a two-thirds vote in each chamber, the extension was impossible without House GOP consent. As a workaround, the Legislature passed a joint order (requiring only a simple majority) to preserve all pending bills for action at any special session that may be called. (Usually, legislative documents still active at the time of sine die are immediately considered dead).

Knowing they would have to return for a veto day to address actions by Governor Paul LePage on recently enacted bills, caucus leaders hoped to strike a grand bargain in the interim. As has occurred in the last several sessions, however, that agreement proved too difficult to achieve by the scheduled close of the session. House Republicans asserted that they would not agree to an extension of the session unless House Democrats promised to separate the Medicaid expansion issue from any negotiated package. At the same time, House Democrats refused to entertain slowing down increases to the minimum wage.

As lawmakers made their way to the State House, hundreds of direct-care worker and community service provider advocates circled the halls and fourth floor rotunda to protest the decline in their wages if the Legislature failed to enact necessary legislation. The House and Senate began the day by moving swiftly through a number of gubernatorial vetoes, overriding several of them. Most notable among these was LD 1719, a massive bill establishing the regulatory structure for adult-use recreational marijuana, finally implementing its legalization by voter-approved referendum in 2016.

After the House and Senate chambers had finished with the vetoes several hours of negotiation and floor debate followed in the House, with the Senate on standby. The Speaker of the House sought to sidestep the standoff over whether to include Medicaid expansion in any eventual spending deal by proposing a highly structured 4-day extension. Eventually three different iterations of the proposed extension were considered but all fell short of the needed two-thirds majority. Upon defeat of the extension proposals, the bodies adjourned sine die.

Despite the refusal of House Republicans to extend, all four caucuses publicly assert their desire to complete the unfinished work in a special session. Governor LePage is also said to be interested in a special session. A session can be convened at any time over the next several months either by the Governor or by a majority vote of the legislative members of each of the political parties. With pending bills that affect, among other things, health care providers urgently needing relief to pay their low-wage workers, vulnerable populations lacking health coverage, K-12 and higher education programs in need of funding, and the reform of the medical marijuana program, the stakes are high in ongoing negotiations over whether, when, and under what conditions the Legislature will reassemble. In the interim, Preti Flaherty's legislative practice group will be first on the scene, analyzing new developments, and guiding a diverse array of clientele through the uncertainties to come.

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