

03-19-11

March 19, 2011

Watch for a More Complete Summary Next Week, After the Dust Settles a Bit

Legislature Ends

The legislature ended Saturday with both houses nearly coming to a halt as various members talked the clock down. In the Senate, Senators Ryan and Adair filibustered and prevented the passage of the capital outlay bill in an apparent attempt to force floor leader Michael Sanchez to hear House Bill 21, the Governor's bill to force schools to retain 3rd graders who were not at reading proficiency. The extortion attempt didn't work and the Senate spent its last two hours listening to inane chatter. Neither the retention bill or the capital outlay bill made it to a vote.

On the House side of the Capitol a prolonged debate between Representatives Thomas Garcia and Patty Lundstrom used up a great deal of the morning and kept many bills from being heard, including the Governor's proposed revamp of teacher evaluation, Senate Bill 502. Even though greatly amended, the measure still had many problematic features. Governor Martinez has threatened to place some of her education reform plans on the agenda when the legislature is called to a special redistricting session later in the year, stay tuned.

Budget Bill Goes to Governor-Retirement Swap Included

The House voted late Wednesday to go along with minor Senate amendments to House Bill 2 bill and sent it to the governor on a party-line vote of 36-32, with all Republicans present opposing the measure.

The House gave final approval Thursday to Substitute for HBs 607 and 622, also part of the budget package. It caps the amount of rebates to film production companies at \$50 million a year. It could free up an estimated \$18 million next year. The House sent that measure to the governor on a vote of 51-17.

On Thursday morning, a combination of progressive Democrats and Republicans in the House rejected Senate changes to HB 628 aimed at freeing up another \$110 million to help balance the budget by continuing the 1.5% retirement swap and adding another 1.75% swap on top of the earlier amount. After Republican Governor Martinez indicated through a spokesperson that she wanted the retirement swap to be permanent, the House Democrats decided not to risk a conference committee that could have moved toward the permanent swap and moved to reconsider the concurrence vote. They voted to reconsider and then to concur with the Senate amendments. While we liked keeping this bill in limbo to prevent its ultimate passage, the chance that the swap could be made permanent was too big to take; we supported the reconsideration even though the vote effectively passed the retirement swap.

Since she appeared to want the swaps made permanent, there is little chance that the governor will veto HB 628, but its worth asking, so

The final budget package is made up of House Bill 2, the General Appropriations Act, House Taxation and Revenue Committee Substitute for HBs 607 and 622, and HB 628. Since all these measures passed with less than 72 hours to go in the session, the Governor will have until April 8 to make final decisions on signing or vetoing them.

The budget as finally passed adds \$25 million that was not in the original House Appropriations and Finance Committee (HAFC) proposal, most from the film credits bill. Of this \$25, \$7.5 million was added to school public school support the rest of the \$25 million freed from the film credit compromise goes to Medicaid, corrections, various other social services, and public safety. The Senate added language to the bill that makes this additional funding contingent on passage of legislation like HB 607, the film credit reduction compromise. Before the cut from the retirement swap, public school support is cut by about 1.5%, while the rest of state government's cut is nearer 3%. The final version of the budget cuts the equivalent of \$15 million from the State Equalization Guarantee and then created another \$5 million dollar cut on top of that to allow the Secretary of Education to impose "efficiencies."

One of the two other pieces of the pieces that makes up this year's budget, House Taxation and Revenue Committee Substitute for HBs 607 and 622 was amended in the passed the Senate Finance Committee to change the cap of film credits from \$45 million to \$50 million, but to remove the ability to carry over credits from year to year, a major part of the compromise reached in the House after much, often acrimonious, debate. This legislation now only adds about \$18 million new dollars to revenues; however, Finance Committee Chair John Arthur Smith stated that the other \$7 million could be "easily" found.

The other piece of the budget puzzle is HB 628, forcing public employees to pay a larger share of retirement withholdings (see below) to save the state budget some \$47 million dollars on top of the 1.5% retirement swap passed two years ago.

HB 628, extends the 1.5% another year, but doesn't make it permanent. HB 628 also passed the Senate early this morning. It creates a shell game of \$27 million in pension swaps for school employees (and \$22 million for other public employees) as proposed by the Legislative Finance Committee to increase employees' share of retirement by 1.75%. The legislature pretends that the School Equalization Guarantee has this money in it, then, in another section of the budget reduces school appropriations by an amount equal to that saved by the passage of this bill, thus passing the increase passed on to employees. Without enabling

legislation, this this reduction won't happen. HAFC Substitute for HB 628 is the enabling legislation.

The bill also extends the two-year 1.5 percent contribution shift implemented for FY10 and FY11 from the employer to the employee for those employees making more than \$20,000 another two years (FY12 and FY13).

It also makes a one-year contribution shift of 1.75 percent from the employer rate to the employee rate for those making more than \$20,000 for FY12. This changes the percentage of retirement withholdings for members of ERA and their employers (as well as employees covered by the Public employees Retirement Association). This legislation "swaps" an additional 1.75% of salary with the state to reduce their share of retirement withholdings and increase yours. This swap is all about budget balancing and does nothing to increase the solvency of the Educational Retirement Fund. In fact, we think it harms the fund. Employee dollars always add less stability to retirement than employer funds, since employees who choose not to retire can remove those dollars from the fund.

HB 628 was amended in the Senate Finance Committee on Saturday. One amendment requires an actuarial study by September 30, 2013, to analyze whether the higher employee contribution rates and lower employer contribution rates required statute have had or will have an adverse actuarial effect on the retirement system in violation of Article 20, Section 22 of the constitution of New Mexico (one of the contentions in our and other public employees' s law suit against the increases filed two years ago). If there is an adverse effect, the two retirement boards will ask, but not necessarily get, a supplemental appropriation from the second session of the fifty-first legislature in the amount that will rectify the adverse actuarial effect. It also has an amendment that extends both swaps from July 1, 2012 through June 30, 2013, if the general fund increases by less than \$100 million and the state fund reserves drop below 5%.

Teacher Evaluation Bill Greatly Amended in the House Labor Committee, Fails to Reach House Floor

Senate Bill 502 never made to a hearing on the House Floor as the clock wound down at noon Saturday. It would have revamped New Mexico's teacher evaluation. Senate Bill 502 is Sponsored by Senator Cynthia Nava. . One good point of the bill is it's requirement that evaluation systems be used to make employment decisions; this would add protections to prevent teacher terminations for reasons other than job related ones. This bill has been introduced on behalf of the Governor and Secretary of Education. They have been open to compromise and we have worked to make changes to the proposed legislation that protect teacher due process and that guarantee both NEA-NM and AFT NM places on the task force that will development the details of the new evaluation system. Part of this development will be how to define "student growth" as shown by the New Mexico standards-based assessment. We certainly don't accept that a straight test score, without any consideration of extenuating circumstances such as attendance and other negative factors, can be used.

The House Labor Committee on Thursday make several positive amendments to the bill, including delaying its real effect for a full one and one half years. They also refined what is meant by student growth; the amendments require that a complete value-added system of measurement be in place before student growth can be used to evaluate teachers. Other amendments removed many references to termination of teachers who fail to meet effectiveness standards.

Difference Versions of Governor's School Grading Bill Pass Both Houses

We supported amendments that were added to the Senate (SB 427) and House (HB Bill 335) versions of The House version of the Governor's school grading bill, , A-B-C-D-F SCHOOLS RATING SYSTEM, sponsored for the Governor by Representative Dennis Roch and Senator Vernon Asbill. The Senate version passed the Senate Wednesday and the House version passed the House yesterday afternoon. This measure still brands so-call failing schools with a letter grade of F and allows students to transfer freely to a school graded with higher letter grade. The positive news is that the section that would have given financial incentives to grade A schools that could have been used for merit pay was struck as were references limiting collective bargaining on the incentives. The Senate bill, SB 427, will be heard this morning in the House Education Committee.
