

Legislative Round Up

56th Legislature, Second Session

Wednesday, January 31, 2024

Day Fifteen

Welcome to the Legislative Roundup, your update on the most important news from the Legislature



DAY 15!

Hard to believe, but the second session of the 56th Legislature hit the halfway point today, which is also the deadline for introduction of legislation. Frankly, unless a bill has a lot of "juice" behind it, a late-introduced bill has little chance of making it to the governor's desk. Typically, something south of 20% of bills introduced make it all the way through in any given year. And, of that, 15% or less are signed into law by the governor.

This year, the governor has placed a lot of bills on her call, so there's somewhat of a scramble to get bills heard and moved along, which has frayed some nerves in the process. So, buckle up; the ride only gets more interesting from here on out!

In Committees



Oil and Gas Act Modifications Sent to Senate

House Bill 133, sponsored by Reps. Kristina Ortez (D-Taos) and Matthew McQueen (D-Sandoval and Santa Fe) proposes to do the following:

- Gives the Oil Conservation Division (OCD), part of the Energy, Minerals and Natural Resources Department, the authority to regulate the transfer of wells and block the transfer if involved parties have a record of noncompliance with rules and regulations and if there are inadequate financial assurances to provide for remediation of any abandoned wells. The OCD can also regulate the transfer of wells for other purposes such as energy storage or geothermal development.
- Establishes several methods for financial assurance against well abandonment ("orphaned wells") in the event the state needs to step in. The cap on a blanket bond (used by producers with many wells) is proposed to increase from \$250,000 to \$10 million. There is no requirement that the fees or financial surety instruments be "tiered" based on the size of the company being affected. Rather, the size of the company is one among several factors to be considered when determining amounts by rulemaking of the OCD.
- Similarly, fees and fines are proposed to increase very significantly - from two to four times the current amounts, and are increased annually by a cost-of-living factor. These increases are said to be necessary in order to ensure there are sufficient revenues in a remediation fund to cover all the potential well abandonments.

The House Judiciary Committee gave the bill a Do Pass recommendation on a vote of 7-4 along straight party lines, Ds for and Rs against. HB 133 now goes to the House floor.

Terri Cole, President and CEO of the Greater Albuquerque Chamber of Commerce, testified again in opposition to HB 133 to support the industry, especially smaller New Mexico producers. Terri stated:

"Madam Chair and members of the committee. ... Today, you heard from the Independent Petroleum Association of New Mexico about the problems created by HB 133 for our home-grown, smaller independent producers.

"We're all aware of the importance of the oil and gas industry to the state treasury. Maybe we are less aware that this also is an industry that has constantly striven, often voluntarily, to improve the safety and environmental performance of its operations.

"Surely, there must be a middle ground that will work to update the oil and gas act satisfying both regulatory and industry interests. This bill does not achieve that balance. Until it does, we recommend the committee set this bill aside and take the time it takes to achieve a balanced

outcome. Thank you."

Many small producers pointed out to the committee that the burdens of this bill are a benefit to major oil producers who will "pick over the bones" of smaller producers forced out of business, largely due to the high financial assurance requirements in the bill. Rep. Ryan Lane (R-San Juan) pointed out there are zero producing wells in Santa Fe and Taos counties. There are over 38,000 in San Juan County. Lane stated he's tired of legislation coming out of Santa Fe that doesn't affect Santa Fe but is a threat to the livelihoods of his friends, family and constituents.

In support of the bill are many environmental advocacy organizations, though several such organizations spoke in opposition because they are unhappy so-called "set back" requirements were taken out of it.



While there has been a lot of work on this bill, and important changes have been made, it appears to us that the cake is not fully baked. We all know what happens if you take a cake out of the oven too soon - the center collapses. In this case, the center of the cake is our native New Mexico companies. We shouldn't want to see them collapse.



Relief For PIT Taxpayers Temporarily Tabled

Yes, tabling sounds bad, but in this case temporary tabling means long-overdue personal income tax reform is in the hopper. Tabling promising tax bills and then aggregating them is how our lawmakers put together a cohesive tax package that hits revenue requirements laid out by the Legislative Finance Committee. This year they've been given \$200 million to work with.

And Rep. Derrick Lente (D-Rio Arriba, Sandoval and San Juan), chairman of the House Taxation and Revenue Committee, is focused on PIT reform in his House Bill 252, short title Adjust Income Brackets. The bill does just that, to the benefit of every single taxpayer in the state, especially those at the lower and middle levels of the income scale.

This morning, Lente introduced HB 252 to his House Tax colleagues and shared that currently, New Mexicans with incomes ranging from \$16,000 to \$210,000 a year are in the same 4.9% bracket. Fixing that insanely wide range is a reform Lente and his tax-reform minded colleagues tried to do in last year's tax package, and they got it through both chambers, only to have it line-item vetoed by the governor.

This session, the bill sailed through the House Commerce and Economic Development Committee on Monday with a unanimous Do Pass, and deservedly so. It creates six income brackets, with the lowest at 1.5 percent for incomes \$4,000 and less for married filing separately, \$5,500 and less for single filers, and \$8,000 and less for those married filing jointly. The top bracket would be 5.9 percent for incomes of \$157,500-plus for married filing separately, \$210,000-plus for single filers, and \$315,000-plus for married filing jointly.

Chamber lobbyist J.D. Bullington testified that:

"These changes will decrease taxes for all taxpayers, with rate decreases targeted at the lowest income earners and the most savings realized by our beleaguered middle class.

"And the fiscal impact report shows taxpayers, and tax burdens, will be evenly distributed throughout the bracket structure.

"It's important to point out our PIT brackets haven't had real adjustment since 2008. And so taxpayers have gradually moved into higher tax brackets, known as 'bracket creep,' despite their 'real income,' or purchasing power, not changing.

"HB 252 can rectify that, helping to finally make sure our personal income tax system accurately and fairly reflects our taxpayers' incomes."

Those who have watched the state budget grow from \$6 billion just a few years ago to over \$10 billion proposed this year, courtesy of the oil and gas boom as well as smart investments, have got to be wondering why average New Mexicans have yet to catch a break when it comes to state income taxes. Rep. James G. Townsend (R-Chaves, Eddy and Otero), said he was "dismayed (the tax relief) is so little" given the billions in new money. "We have the capacity to leave more money in the pockets of New Mexicans, and we sometimes forget in the Legislature that it really is their money to begin with, and we ought to leave it there – because they can do with the increase."

Rep. Christine Chandler (D-Los Alamos, Sandoval and Santa Fe) said she came at the bill with a different take and was disappointed it didn't look harder at the higher income brackets for revenue to help make room for gross-receipts tax reform.

And while broadening and lowering GRT is something we can 100 percent get behind, that should not preclude revamping the PIT brackets and providing income tax relief to all New Mexicans, particularly the working lower and middle-classes. As we've pointed out before, with more than \$10 billion in record revenue going to state spending, it is past time to put Townsend's sentiment into action and put some money back in New Mexicans' pockets via personal income tax reform.

As happened Monday with the bill, the entire committee room agreed: There was no testimony in opposition, and the New Mexico Business Coalition and Rio Grande Foundation joined the Chamber to testify in support. Carla Sonntag of the Coalition said this "is great legislation and good for the state. It will bring business here, as many people pay their business tax at their personal rate." And Paul Gessing of the Foundation said it's "a good move in the right direction when it comes to tax policy. With a huge surplus, this allows New Mexicans to participate in that prosperity."

The committee said it was going to "gently, temporarily table" HB 252 so it can join other tax bills in the coming days.

We'll be keeping an eye on it, and we'll keep you informed on what happens next with it and other tax bills in the session.



Public Safety Return-To-Work on the Move

This afternoon, Senate Bill 87 as substituted got a unanimous 10-0 Do Pass in the Senate Finance Committee. Sponsored by Sen. Craig Brandt (R-Sandoval) and with the short title Law Enforcement Retirement Changes, the new and improved version is the product of collaboration and compromise, with the sponsor giving credit to Sen. Mimi Stewart and Rep. Gail Chasey (both D-Bernalillo); county officials; and his expert witness, Carter Bundy, political action representative for the American Federation of State County and Municipal Employees (AFSCME).

SB 87 will allow some retired public safety employees to return to work under carefully crafted guardrails to not only protect their pension fund but also current mid-level and new incoming employees. Rehired retired employees can:

- Return to work while still collecting their pension for three years. They and their employer would pay into the pension fund, but the employee but would not accrue service credit. At the end of three years they could opt to continue working and stop collecting their pension or leave.
- Only fill entry-level, front-line positions provided the vacancy rate of the hiring entity is greater than 10 percent. The “retired member shall have no seniority based on pre-retirement employment for purposes of selecting shifts.”
- Be considered for rehire if they retired prior to Dec. 31, 2023, and subsequent employment begins prior to July 1, 2027.

Brandt explained the caveats are designed to make rehiring retirees a bridge to help fill the huge number of vacancies in public safety positions while preserving the ability for mid-level employees to advance and new academy graduates and other employees to begin to fill the ranks. Positions included for rehire are:

- adult correctional officer
- adult detention officer
- courthouse security officer
- emergency medical dispatcher
- emergency medical technician
- firefighter
- juvenile correctional officer
- juvenile detention officer
- municipal police officer
- public safety telecommunicator
- sheriff's deputy
- State Police officer

D'Val Westphal, executive vice president of policy and programs, testified for the Chamber:

"We've all read the headlines of how hard it is for our law enforcement agencies and jails to hire and retain officers. Senate Bill 87 offers a concrete, financial incentive to help encourage trained officers to return to work or move to New Mexico to continue their public safety career.

"By allowing some retired members of the Public Employees Retirement Association to return to work and keep their pension benefit, and qualified officers in other states or the federal government to purchase service credit from PERA, this program has a real chance of increasing the number of experienced law enforcement, corrections and probation and parole officers in our state.

"And smart changes in the committee substitute should eliminate any chance of abuse by double-dipping early retirees and put the rehires where they are most needed – in front-line positions."

There was no testimony in opposition to the bill; a firefighter, retired law enforcement officer, court security officer, the New Mexico State Police and a representative for counties cited the severe staffing shortages across the state – all in the double digits, and an eye-popping 68 percent vacancy rate in corrections officers at the juvenile detention facility in Albuquerque. The court security officer, who retired from the Albuquerque and Bernalillo County law enforcement agencies, summed it up by sharing there is great "value in retirees; somebody who knows how to handle the public is huge," as a short-staffed department has trouble covering daily shifts, much less training green hires.

Committee questions focused on ensuring those retirees are valued, and Senate Finance Chairman Sen. George K. Muñoz (D-Cibola, McKinley and San Juan) suggested an amendment be ready for floor debate to add CYFD to the list as that agency is also plagued with a high vacancy rate; Brandt said he was amenable. We'll keep you posted on what happens with the bill if things go as they should and it moves not just to the Senate floor, but through the House and to the governor's desk.



School Board Training Heads to Senate Floor

The Senate Education Committee green-lit a proposal today to strengthen New Mexico's local school district and charter school leadership through increased training and transparency. Senate Bill 137 was received with a unanimous Do Pass.

The bill, sponsored by Senate Pro Tem Mimi Stewart (D-Bernalillo), sets a new requirement of 10 training hours for new school board members and charter school governing board members. More specifically, the bill breaks down what that training should cover: two hours each of ethics and school personnel, public school finance, open meetings and public records, governance and supervision, and student achievement and support services. Established board members stay current with five hours of training each year.

An amendment to the bill also prohibits the board from terminating a district superintendent without cause or extending their contract within 60 days of a new board member swearing in. This is to ensure any new board members have time to learn the ropes before making such an important decision, Stewart said.

The bill places a strong emphasis on transparency too, requiring all board members to disclose any individuals or organizations that contributed more than \$1,000 to their campaign, and requiring public reporting on which board members haven't completed the necessary training. Even more importantly for the community, the bill would mandate board meetings be webcast, recorded and archived for people to watch later for at least two years.

The Chamber stood in support of the bill at today's hearing. "Leadership matters, and it starts at the top, Chamber rep Sara Fitzgerald told the committee. "Our local school boards set the tone for our district administrators and our principals, who lead schools of hundreds, sometimes thousands, of kids. This bill will help them attain the skills they need – like an awareness of finance and legal topics, and the value of data for helping students set and reach academic performance goals."

SB 137 had plenty of other supporters too, ranging from representatives of superintendents, school boards and charter schools to the policy think tank Think New Mexico – many of these stakeholders were involved in the development of the bill last year, long before it received a unanimous endorsement from the Legislative Education Study Committee. It's a thoroughly vetted piece of legislation that will strengthen our local education boards to ensure they can lead their districts and charter schools to achieving even more.

The bill is now headed to the Senate floor, where it deserves swift approval so it can get through the House and to the governor's desk this session.

On the House Floor



HAFC Chairman Rep. Nathan Small (D-Doña Ana) explains the budget

Budget To Senate; Floor Amendment Passes

A 53-16 bipartisan vote sent the \$10.2 billion spending plan to the Senate for further consideration. In recent Legislative Roundups, we have reported what's in the budget in some detail. However, if you'd like to dive into the numbers, the Legislative Finance Committee (LFC) has prepared an excellent summary, which you can view by clicking [here](#).

After three hours, debate was terminated per house rules. During the debate several amendments were offered, and all but one was defeated. The fact that the bill was amended on the floor is significant - we can't remember the last time that happened. A side effect of amending the bill is that it will delay arrival in the Senate as the 200 plus pages have to be recompiled and reprinted. So, how was the bill amended and why?

Rural Legislators Reject 5-Day School Week Mandate



Rep. Gail Armstrong

Rep. Gail Armstrong (R-Catron, Sierra, Socorro and Valencia), who represents the largest geographic district in the state (could be the nation), proposed an amendment to block the Public Education Department from implementing, by rule, a mandate that all schools must implement a five-day school week. The great majority of rural schools operate on four-day weeks due to the long travel times for kids to get to school and the cost of transportation.

According to Armstrong and other rural legislators, four-day weeks are cost-effective and very popular with teachers, administrators, parents and students. Many of the four-day schools have among the highest achievement in the state. Rep. Jim Townsend (R-Chaves, Eddy and Otero) quipped, "Sometimes I wonder if we just can't stand prosperity ... why in the world would we want to stop it?"

Both the LFC and Legislative Education Study Committee (LESC) have written letters to the governor and the PED opposing the five-day mandate because of a carefully crafted compromise last year in HB 130 that dealt with extended learning time. The compromise was to establish requirements in hours, not days, thereby giving rural districts flexibility in how they manage extended learning time requirements. Many legislators are unhappy PED is now trying to undo the decision of the Legislature. The amendment could be line-item vetoed by the governor if it survives Senate action. No doubt, the fourth floor will encourage the Senate to strip the amendment. Here's the roll call vote:

Rep. Armstrong Motion to Adopt House Floor Amendment #2 for HB 2

N Alcon	N Chávez	Y Hernandez	Y Madrid	N Romero, GA
Y Allison	N De La Cruz	N Herndon	Y Martinez, A.	E Roybal Caballero
N Anyanonu	N Dixon	Y Herrera	N Martinez, J.	N Rubio
Y Armstrong	Y Duncan	Y Hochman-Vigil	Y Mason	Y Sanchez
Y Baca	Y Ezzell	Y Jaramillo	Y Matthews	N Sariñana
Y Block	N Ferrary	Y Johnson	N McQueen	Y Scott
Y Borrego	Y Figueroa	Y Jones	Y Mirabal Moya	N Serrato
Y Brown	Y Gallegos	Y Lane	Y Montoya	N Small
Y Cadena	Y Garcia, H.	Y Lara	A Ortez	N Szczepanski
Y Castellano	N Garcia, M.P.	Y Lente	N Parajón	Y Terrazas
N Cates	N Garratt	N Little	Y Pettigrew	N Thomson
N Chandler	N Gurrola	Y Lord	Y Reeb	Y Townsend
N Chasey	Y Harper	N Lujan	Y Rehm	Y Vincent
Y Chatfield	Y Hembree	Y Lundstrom	N Romero, A.	Y Zamora
Yeas: 42	Nays: 26	Excused: 1	PNV: 0	Absent: 1

Republicans Say Cut More Taxes, Build More Roads



Minority Leader Ryan Lane presents a budget alternative

"We're focused on growing the economy, not growing the government," said Minority Floor Leader Ryan Lane (R-San Juan) in presenting a Republican alternative to HB 2. The proposal had two main objectives: increase the amount of tax relief from \$200 million to \$600 million and increase spending on roads to \$500 million. Spending was to be reduced in other areas to prioritize these increases. The Republican proposal also would have increased the general fund reserve from 32% to 44%. Chairman Small and others spoke against the proposal, and it was tabled on a straight 43-25 vote, Democrats in favor of tabling, Republicans opposed. Two other amendments were also proposed and tabled.

The Senate Finance Committee will scrutinize the bill and make changes that address Senate priorities. Generally, the changes are not major, and the House has left some money on the table for the Senate to utilize. Once the SFC has finished its work, the bill will be sent to the Senate floor and, after approval, the bill will be returned to the House for concurrence on Senate amendments.

Around the Roundhouse



Director David Abbey with his wife, Lauren

David Abbey Day!

At the end of last session, David Abbey retired as the Director of the Legislative Finance Committee, having served as a mentor, leader and super-powered budget master for 26 years.

Like so many others throughout the state, we at the Chamber worked with David on many budgets and financial issues. Chamber President and CEO Terri Cole remembers he was "always patient, always helpful and always insightful. He was such a good friend, mentor and savvy LFC director on everything - from soup to nuts." We want to add our voice of gratitude to those of House members who celebrated David Abbey Day. We wish David and his family all the best as they enjoy more time together and explore new adventures.

Signing Off from Santa Fe



The House had a very long floor session today, lasting from about 11 a.m. to 6 p.m., which suggests that very soon the Speaker will initiate evening sessions.

In the past, House morning floor sessions have often been used to handle ceremonial celebrations as well as non controversial legislation. The more controversial has often been handled in the evening sessions. This schedule allows some committee meetings in the morning and some in the afternoon.

The Senate, however, usually just proceeds with its floor session until it has completed scheduled work and then recesses for committees to meet, often in the very late afternoon or early evening.

The remainder of this and next week will see intense committee work, and the last week of the session will see much fewer committee meetings and day-long floor sessions. From the midpoint of the session to the end, the pace and intensity will increase with each passing day. We'll be there to bring you all the news and views. Thanks for joining us today, and have a very pleasant evening.

The Legislative Roundup, published during the New Mexico Legislative Session by the Greater Albuquerque Chamber of Commerce, provides information on local and state public policy and business issues that affect you.

For questions, please email D'Val Westphal at dwestphal@greaterabq.com.



Working to make our city and state a great place to start and grow a business and a safe, exciting place to work and raise a family.

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