

# Legislative Round Up

56<sup>th</sup> Legislature, Second Session

Tuesday, February 6, 2024

Day Twenty-One

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

## In Committees



A rendering of Maxeon Solar Technologies' planned facility in Mesa Del Sol.

## Reeling in the Big Fish

This morning, the House Energy, Environment and Natural Resources Committee passed House Bill 274, a bill creating an exciting new income tax credit for manufacturers in renewable energy and battery storage.

The bill's sponsor, Rep. Linda Serrato (D-Santa Fe), explained this new program would dovetail with the federal Inflation Reduction Act, which incentivizes stateside production and sales of advanced energy technologies, including wind turbine components, solar panel production, and energy storage systems like batteries. HB 274 would create an income tax credit of 20% of the manufacturing facility's equipment or \$250 million, whichever is lower, to support these businesses in their significant startup costs. There's also an important "clawback" mechanism requiring manufacturers who receive the tax credit and then cease operations for four months straight to pay the taxes the program waived. In other words, bad actors can't claim the tax credit and then move on before their presence can benefit New Mexico.

Serrato said this credit will incentivize these manufacturers to choose our state as they reshore their overseas production, and in turn help support New Mexico's long-term efforts in its

transition away from dependency on oil and gas.

Last fall, Maxeon Solar Technologies announced a \$1-billion investment in New Mexico with plans for a 1.9 million-square-foot manufacturing facility that would produce solar cells currently manufactured abroad. (Check out this [Albuquerque Journal](#) coverage of the announcement for more details on this exciting project.) Incentives like the one proposed in HB 274 could encourage more manufacturers to relocate, build and hire in New Mexico.

The GACC expressed support for the bill, with Chamber lobbyist J.D. Bullington saying, “This has the potential to support a lot of communities across our state that are looking for good, high-paying manufacturing jobs.” He added, “A tax credit program like this will show other global manufacturers of Maxeon’s caliber that New Mexico’s the place to be if you want to bring cutting-edge technology and manufacture renewable energy equipment.”

The Sierra Club of the Rio Grande and the New Mexico Chamber of Commerce also spoke in support of the bill.

However, the Republican members of the committee raised concerns over the lack of an aggregate cap on the tax credit. They pointed out that the Inflation Reduction Act also covers the mining of rare and precious minerals like lithium, which oil and gas producers can extract when they clean their produced water. If the industry decides to participate in this tax credit, utilization could jump, leading to a much greater cost to the state in tax liability. The bill’s experts assured the committee the projects eligible for this tax credit would be few and far between, but the three members remained unconvinced. “I wouldn’t underestimate the ability of industry to look at a potential tax credit and figure out how to turn their process into exactly what we’re talking about for extraction purposes,” said Rep. Rod Montoya (R-San Juan).

Rep. Cynthia Borrego (D-Bernalillo) asked the sponsor and her experts how this tax credit would work with city- and county-issued industrial revenue bonds, or IRBs, local incentives for businesses seeking to relocate to the area. The experts explained there would be no “double dipping,” since IRBs primarily cover property tax; even when IRBs are used for facilities or equipment, the issuing city or county temporarily becomes the owner of that facility or equipment, so the business can’t benefit from both programs at the same time for the same purposes.

After some more discussion of potential technical amendments to clarify some details around transfer of the tax credit, the committee passed the bill with a 5-4 vote on a Do Pass motion. Reps. Montoya, Jared Hembree (R-Chavez), Larry Scott (R-Lea), and James Townsend (R-Chaves, Eddy and Otero) all reiterated their preference for a cap on the tax credit.

This bill next heads to House Tax as it races to be included in this year’s tax package before the Legislature adjourns Feb. 15.

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## **Scholarship Flexibility to Senate Floor**



SB239, sponsored by Sen. George Muñoz (D- Cibola, McKinley and San Juan) and Siah Correa Hemphill (D- Catron, Grant and Socorro), amends both the Legislative Lottery Tuition Scholarship Act and the Opportunity Scholarship Act to allow students to attend year round to accelerate obtaining a degree and to accommodate those that need to work while going to school. The bill also removes the penalty for high school students that earned college credits by taking dual credit courses.

Substantive changes to the Legislative Lottery Tuition Scholarship Act include:

- The bill defines full-time as enrolled in 30 or more credits per year for four-year state educational institutions, and 24 credits or more for students enrolled at a community college.
- The bill adds three summer semesters to the terms eligible for tuition scholarship funding, with summer enrollment required to be at least three credits and no more than nine credits; provided that summer enrollment is not required for eligibility.
- The bill removes all references to legacy students.
- The bill removes credit-hour limits to the semester prior to graduation.

Substantive changes to the Opportunity Scholarship Act include:

- Dual credit courses do not apply to the credit hour cap for the tuition scholarship.
- Students with disabilities may have their definition of “full time” adjusted to as low as six credits during a semester and three during a summer term.

Chamber lobbyist J. D. Bullington offered the following testimony in support:

*New Mexico’s Lottery Scholarship and Opportunity Scholarship have the potential to be life-changing for many of our young people. The bill before you makes good changes that will ensure students can take full advantage of these programs the way we want them to. It clarifies really important requirements and grants our college students meaningful flexibility – like counting credit requirements on a per-year basis instead of per-semester, and making summer semesters eligible for scholarship coverage.*

*And, this bill would hold our high school students harmless for dual credit courses they may take. It shouldn’t count against them when they use dual credit to get ahead – that’s exactly the reason the dual credit program was created.*

*This bill will ensure these state-funded scholarship opportunities really work for our students so*

*they can succeed in attaining their degree in less time and at no cost to them.*

The bill received a unanimous do pass recommendation, sending it to the Senate floor.

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## House Floor



## Housing Fund Bill To Senate

The House passed HB 195, sponsored by Rep. Linda Serrato (D-Santa Fe) and Reps. Meredith A. Dixon and Joy Garratt and Sen. Michael Padilla (all D-Bernalillo), by a vote of 50-16. The Senate received the bill and referred it to the Senate Finance Committee.

The bill expands on 2022 Serrato-Dixon legislation that has successfully focused on rehabbing and building commercial projects for economic development. That program, the Opportunity Enterprise Act, drew 33 applications (42 percent from rural areas) and has seven projects in the pipeline – including breweries, restaurants and entrepreneurs. HB 195 would take the next step in providing low income and affordable housing with an eye on projects that support economic development, i.e. put the housing where the jobs are. There is money in House Bill 2 for the program, which is designed to have \$75 million for commercial development projects and \$100 million for housing.

The Chamber strongly supports HB 195 which can help close the housing gap wherein the state needs at least 30,000 more units. Our reasons include:

1. Partnering with the private sector to create and expand affordable and workforce housing
2. Providing a mechanism to make loans of up to 40 years to development partners
3. Beefing up the oversight board with the Executive Director of NMFA and two gubernatorial appointees with experience in housing, building or development
4. And expanding that board's powers to include evaluating partners and projects for suitability for assistance.

There's a great deal of support for and momentum behind his bill, which we hope means it will soon be at the Governor's desk.

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# Bill to Save Interest Costs for Charter Schools



HB 207, sponsored by Representative Joy Garratt (D-Bernalillo), amends the Public School Capital Outlay Act to make lease assistance to charter schools from the public school capital outlay fund mandatory rather than discretionary for the Public School Capital Outlay Council. The change is needed in order to allay concerns of bond investors that the assistance could be unavailable in any given year, thus making the bonds more risky, demanding a higher interest rate. If this assistance is required each year, bonds should be able to be issued by the New Mexico Finance Authority utilizing their AAA credit rating. A lower interest rate means less cost of debt service and more money available for the intended purpose - improving or building charter schools.



Terri Cole, Chamber President and CEO appeared in support of the measure:

*It takes a lot of work to stand up a new charter school – and it takes a lot of money too. The revolving fund created two years ago revolutionized charter facilities funding, and this extra appropriation will make it possible for more of our new and young schools to take full advantage of it. We want to ensure that the public charter schools that serve our community’s kids don’t*

have to settle for private loans with high interest rates that force them to compromise on their vision.

*We're also in full support of the changes to the lease assistance program here. These will meet our schools' needs and create predictability to ease school leaders' minds, so they can focus on leading their school. Just like students at any other public school, charter school students deserve safe and comfortable facilities where they can learn and grow.*

The House Appropriations and Finance Committee gave the bill a unanimous do pass recommendation, sending it to the House floor.

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## **Around the Roundhouse**



### **Archuleta: State School Board is "poor form of governance"**

Following his testimony to the House Education Committee yesterday on SJR 9, a proposed constitutional amendment to reinstitute a state school board, Chamber board member Del Archuleta sent a follow up letter to the members of the committee. It's our hope and desire that the committee will refer SJR 9 to interim study by the Legislative Education Study Committee. How to best govern our education system deserves the utmost study and analysis - it's about ensuring the system delivers for our children, not the adults. Here's Mr. Archuleta's letter:

*I sincerely appreciated the opportunity to address the house education committee yesterday morning regarding SJR 9. The subject matter of the joint resolution is something that is near and dear to my heart. I wanted to follow up with you on concerns I did not get to surface as my time ran out during your committee meeting.*

*As I indicated yesterday, through my affiliation with a "blue ribbon task force" commissioned by the Greater Albuquerque Chamber of Commerce in 2000, I have had the opportunity to study the proposed state school board model and it's lack of effectiveness in school districts throughout the country. Furthermore, by appointment by Governor Richardson, I have had the opportunity to serve on, and chair, our own state's school board before it was dismantled in 2003. As such, I have had very direct experience with this state school board model being re-proposed in SJR 9.*

*The state school board model in both my study and experience is a poor form of governance for a state, especially a state as diverse and large as New Mexico. I understand how one might think that a state school board made up of representatives from individual districts would be very effective in reflecting strategic input from all corners of the state to shape and implement state educational policy. However, my experience was that it was very difficult to get a 15 member board to tackle the important statewide issues, and, as such, very little meaningful progress was made by our state school board in the past. As a result, our students suffered under this form of*

governance.

*The state school board I served on was the exact same make up as the model proposed in this resolution. 10 elected seats from individual districts and five seats appointed by the governor. In my experience, the individual board members that I served with were perfectly nice people, all serving with good intention. But when we convened as a 15 member board the effectiveness of the board was unwieldy and highly ineffective in our given purpose and responsibility. When it was time for us to consider state education policy, many of our meetings devolved into political infighting, and it was very difficult to get some board members to focus on statewide issues or strategy rather than their own "district" needs or issues. In fact, the state superintendent was often compromised by board members who sought to micromanage the process. We had little or no ability to move quickly on important issues because of the stalemates. To say that the state school board was "sluggish" and "ineffective" compared to many other boards I have had the pleasure to serve on in my career would be a major understatement.*

*In our education system, we need responsiveness, agility, and the stamina to deliver opportunity to every single child in this state. We are headed in the right direction. This is not the time to slow down progress or be disruptive. The Public Education Dept. needs to be in the governors cabinet, no matter who sits on the fourth floor. The PED needs the flexibility to do what is right to serve our kids and partner across agencies to deliver innovation and progress.*

*The Greater Albuquerque Chamber and I believe every child in this state deserves a chance to achieve their dreams, and our chance of doing that is much better under the current model of governance. Please do not let SJR 9 land on the ballot. It will be a setback for our students for generations.*

*I'd like to close with a quote from an impressive principal our blue ribbon task force at the Greater Albuquerque Chamber met in Philadelphia during our studies. She said to us:*

*"We finally started to achieve educational success when we started doing what was right for our kids instead of what was convenient for the adults".*

*In retrospect, that's all we really need to know about doing the right thing for our children.*

*Thank you for your service and consideration.*

*Respectfully,*

*Adelmo (Del) Archuleta*

*3-time Chair of the Greater Albuquerque Chamber of Commerce Board of Directors and current Chair of the Education Bold Issue Group*



## **Strategic Water Supply (SWS): Huh?**

So what's a strategic water supply and why do we need it? The idea is to create a supply of treated brackish or produced water (from oil and gas fields) to a level acceptable for industrial use in order to attract advanced energy production (read hydrogen) or advanced manufacturing (read chips, EV batteries, etc.), thereby creating an economic incentive to locate a facility in New Mexico and to satisfy demand for water without using fresh water.

Governor Lujan Grisham announced this initiative on December 5 at the United Nations Climate Change Conference. The Governor is seeking a total of \$500 million over two years to allow the state to purchase treated water on behalf of end users for their use. The theory is that if the state agrees to purchase then the private sector will drill the wells and build the treatment and transportation facilities to get the product to market. Since then, the New Mexico Environment Department has issued a request for information (due at the end of March) to gather information in order to plumb the depths of how this proposal will work, how much it will cost, etc.

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Senator George  
Munoz

## **Senate Finance Committee Receives Briefing**

Recently, the Senate Finance Committee received a briefing from New Mexico Environment Department Secretary James Kenny in advance of legislation being introduced. Kenney emphasized that without state involvement it's unlikely that the private sector alone will be able to accomplish this goal. Kenny clarified that the \$500 million would be obtained from the use of short term severance tax bonds (known as sponge bonds because they "soak up" short term cash in the treasury). SFC Chair George Muñoz (D-Cibola, McKinley and San Juan) clearly said that's a non-starter for him. He recalled the days when revenues were short and sponge bonds were needed just to pay debt service costs. Muñoz also expressed concern over making water a "commodity." He is concerned that selling treated water could inflate the price of water, thereby, increasing the price that communities have to pay for their water supplies as well. We can't resist saying that there's going to be a lot of water over the dam before this issue is settled.

### **Questions That Need Answers**

There's no doubt that New Mexico needs more water - who would disagree with that? The issue will be how we get there. The following are some questions we have about the SWS:

- Does the state plan to resell the water to commercial users? If not, wouldn't giving away the water as an economic development incentive be a violation of the anti-donation clause? If so, will the price include the cost of both principal and interest on the short term bonds? What kind of profit margin will those who treat, store and transport expect
- Where will the water be stored awaiting delivery to the commercial users?
- Will the price of the treated water be competitive with water that potential commercial users can obtain in other states?
- Will the request for information issued by the Environment Department provide a complete picture of the costs to treat, store and transport treated water?
- Are there companies in existence that have the capital on hand to build all the necessary infrastructure?
- If it is profitable and economically feasible to treat produced or brackish water for sale, why hasn't the private sector done it already? How will establishing the state as a middle man actually contribute to tapping these water supplies?



- We're looking forward to learning a lot more about this proposal and we appreciate the efforts of the Governor and her staff to find a creative solution to an idea that's been kicked around for quite some time. Standby on this one.



## **Goodwill Industries Revs Up New EV Semis**

Earlier today and far from the Roundhouse, Goodwill Industries of New Mexico unveiled new electric freightliner semi-tractors. They celebrated with a ribbon-cutting event at their San Mateo flagship location that was attended by Governor Michelle Lujan Grisham and other community members, including GACC State Legislative Affairs Chair Sherman McCorkle. Kudos to Goodwill Industries – they're a Chamber member and they do excellent work in our communities. We're excited they have some new and green "horsepower" to put behind their work!

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## **Signing Off from Santa Fe**



Here's one for you: allodoxaphobia. If you can say it, hats off to you! If you know what it means, move over Einstein. So, what does it mean? It is the fear of other people's opinions. That's one phobia a person can't have around this place! And, that's our opinion on that. Tomorrow, we'll be looking to see the fate of SJR 9 proposing to reinstitute the state school board. Fingers crossed, hopin this one goes to interim study. Increasing liquor taxes will also get the spotlight along with yet another constitutional amendment - the so-called "green amendment - that would establish "people's environmental rights in perpetuity," whatever that means. These and many more bills will keep us hopping tomorrow. Thanks for joining us for today's news and views. We wish you a very pleasant good evening.

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*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](mailto: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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