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FULL TEXT

This week in the Legislature: Budgets in the spotlight for both houses

Montgomery Advertiser

February 24, 2014

Brian Lyman and Kala Kachmar

A look ahead at the Alabama Legislature's agenda this week. All events subject to change.

House of Representatives

The House is scheduled to return at 1 p.m. Tuesday. House Speaker Mike Hubbard, R-Auburn, said the plan is to take up the General Fund budget in session on Wednesday. Budgets were passed out to House members Thursday so they have a chance to look at the budget and ask questions before it goes to the floor for discussion.

“The goal is to have both budgets done (early) to send them to the governor,” Hubbard said. He said he didn’t want representatives to be in a position where they have to make a last-minute vote on the budget.

In committee:

The House Health Committee meets at 11 a.m. Tuesday and is expected to discuss and possibly vote on the four abortion-related bills that were discussed in public hearings, including one that would ban abortion after the fetal heartbeat is detected, which can be as early as six weeks into the pregnancy.

The House Education Policy Committee meets at 3 p.m. Wednesday and is expected to discuss a bill that would make it mandatory for 18-year-olds to attend school unless they’ve already graduated.

Senate

The Senate is scheduled to return at 2 p.m. Senate President Pro Tem Del Marsh, R-Anniston said the Education Trust Fund budget — scheduled to appear in committee Wednesday — could come up for a vote on the Senate floor Thursday. Marsh also said there would be an attempt to bring back the Taxpayers’ Bill of Rights, which was carried over last week.

“All parties that had interest ... have a piece of legislation that we think will work,” Marsh said.

In committee:

The Senate Finance and Taxation Education Committee meets at 10:30 a.m. Wednesday. Besides the budget, the committee is also scheduled to take up legislation that would phase out the state sales tax on groceries, and a bill that would allow school districts to set the beginning and ending dates of their school year, repealing a 2012 law.

The Senate Judiciary Committee meets at 1 p.m. Wednesday. The committee is scheduled to take up legislation that would allow individuals to carry concealed weapons, and a bill to increase the penalties for certain gambling crimes.

The Senate’s Agriculture, Conservation and Forestry Committee meets at 2 p.m. Wednesday. Among other bills, it will take up legislation to decriminalize the sale of animals between sunset and sunrise.

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Bentley: Online retailers should collect sales taxes

Montgomery Advertiser

February 23, 2014

Mary Orndorff Troyan

WASHINGTON — Gov. Robert Bentley said Saturday that Congress should pass legislation to make online retailers start collecting sales taxes but without an exemption for small businesses.

Bentley, like many of the state leaders gathered in Washington for the National Governors Association meeting, said the Marketplace Fairness Act will level the playing field between brick-and-mortar retailers, who already collect and remit sales taxes, and their online-only competition.

But for Bentley, the issue is about more than fairness. He estimates Alabama's cash-strapped General Fund budget would gain \$140 million to \$150 million a year if online retailers were required to hand over the sales taxes when their customers buy something and have it delivered to their house or business in Alabama. Under current law, the burden to pay the sales tax is on the customer, but it rarely happens and is not enforced.

"That tax is already owed. Even if it's a small business, you have to pay it, by law," Bentley said. "This is not a new tax."

The Senate passed the online tax bill last year, but it exempted businesses with less than \$1 million in annual revenue out of concerns that it would be a costly administrative burden for small companies.

But House Republicans, including Rep. Spencer Bachus, R-Vestavia Hills, are working on a version that may not include such an exemption. House Judiciary Committee chairman Rep. Bob Goodlatte, R-Va., and Bachus said recently that a key principle should be that complying with the online sales tax collection law should be so simple and cheap that small businesses wouldn't need an exemption.

Bachus is chair of the subcommittee that deals with Internet tax issues.

Bentley said the Marketplace Fairness Act would protect jobs in Alabama.

"Local businesses in Alabama are put at a 10 percent disadvantage when they compete with online sales," Bentley said. Alabama's state sales tax is 4 cents, but many cities and counties levy their own sales taxes of 4, 5 or 6 cents.

In Alabama, 75 percent of the online sales tax goes to the state's General Fund, which pays for prisons, Medicaid, public safety and other non-education agencies. Without the \$140 million or \$150 million that would be generated under the proposed federal law, Bentley said problems such as overcrowded prisons would worsen.

“Everything that is dependent on the General Fund will be hurt, and we’ll have to find some other revenue source,” Bentley said. “I wish I could tell you exactly where we’re going to find the revenue sources.”

Americans for Tax Reform, a conservative group that opposes tax increases, said the Marketplace Fairness Act would hurt online businesses based in Alabama.

“If Alabama wants to bolster revenue, it needs to keep the tax system fair, competitive and simple to encourage innovation and growth, not encroach on state sovereignty and put online retailers out of business,” according to a Feb. 18 statement from Americans for Tax Reform.

A new law in Alabama would give online retailers the ability to submit one single payment to the state, according to the Alabama Retail Federation, which supports the legislation.

Bentley flew to Washington on the state plane Friday, with staff, to attend the National Governors Association meeting.

On Saturday, he attended a Republican Governors Association breakfast and chaired a NGA panel discussion on transportation issues. Today, Alabama’s commissioner of the Department of Children’s Affairs will discuss the state’s pre-K program at a governors’ panel about early childhood education, and Bentley will talk to the NGA health committee about combating prescription drug abuse.

Bentley and his wife will join the governors at a black-tie event at the White House tonight, and the governors will meet with President Barack Obama on Monday morning.

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Gov. Robert Bentley plans to sign legislation restricting teens' use of tanning salons

The Associated Press

February 21, 2014

MONTGOMERY, Alabama — Alabama's physician governor plans to sign legislation to put Alabama among a growing number of states that places restrictions on teenagers using tanning salons.

The Legislature gave final approval to a bill Thursday that sets the limits. The bill's sponsor, Republican Rep. Ron Johnson of Sylacauga, said it is the result of dermatologists seeing a growing number of teenagers with melanoma from excessive using of tanning beds.

"Most young people want to be with the 'in crowd,' and they don't realize the danger it presents to them," Johnson said in an interview Friday.

Gov. Robert Bentley practiced dermatology in Tuscaloosa prior to running for governor in 2010. He plans to sign the bill into law, his communications director, Jennfer Ardis said Friday. "The governor knows the danger that tanning beds pose and certainly supports the bill," she said.

Johnson's bill prohibits anyone 14 and younger from using a tanning bed at a salon without a doctor's prescription. Fifteen-year-olds can use them if a parent is present and gives written approval. Teens 16 and 17 could use them with written approval from a parent.

The permission form that parents must sign includes several warnings, including, "Repeated exposure may cause premature aging of the skin and skin cancer." Johnson said the warnings are to make sure parents are making an informed decision.

The bill does not regulate tanning beds in homes or teens getting spray tans at salons. The bill will take effect about six months after the governor signs it.

The American Suntanning Association, a national association of tanning salons, worked with Johnson on the legislation. "It will cause very little change because parental consent has been the standard," said Joseph Levy, scientific adviser to the association.

The Alabama Retail Association, which represents some large salons in the state, also worked with Johnson and supported the bill, President Rick Brown said Friday.

Many states have considered tanning regulations since a New Jersey woman was accused of taking her 5-year-old daughter into a tanning booth in 2012. The deeply tanned woman, who became known as the Tanning Mom, was charged with child endangerment, but a grand jury refused to indict her. More than 30 states now regulate minors' use of tanning salons. California and Vermont have bans, but most states use a minimum age and parental consent like the Alabama legislation.

The president of the Medical Association of the State of Alabama said the regulations are important because skin cancer is the most common type of cancer. "With indoor tanning bed use on the rise, this is a responsible approach to ensure parents are involved in an important decision affecting their children's health," Dr. Michael Flanagan said.

Jim Mercer, spokesman for the states Dermatological Society, said the legislation is a common sense balance between public health concerns for children and the right of businesses to provide a legal service without excessive governmental regulation.

The Centers for Disease Control and Prevention found in a 2011 survey that about 13 percent of high school students use tanning salons, including 32 percent of female 12th-graders.

Levy said the restrictions on teens don't have much impact on tanning salons' business. "The teen market is about 2 percent of tanning facilities' business," he said.

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Law & older: Should those older than 70 get out of jury duty?

Montgomery Advertiser

February 23, 2014

Kala Kachmar

Last November, 87-year-old Nell Prescott was called to jury duty in Montgomery County.

Prescott, who doesn't drive more than a mile or so around her home, asked to be excused from service. But a bill proposed by Rep. Rod Scott, D-Fairfield, would allow those older than 70 to take themselves out of the jury pool before they're even called.

"I've been called many times and I've always enjoyed it," she said. "Since I've gotten older, my husband's had to drive me everywhere. I think they should be able to take their name out."

The bill has been discussed in the House Judiciary Committee. The topic sparked debate among legislators about whether the bill is a good idea. It would allow seniors to take their names out of the jury pool, but also allows them to reinstate themselves should they change their mind.

In most counties, the jury duty pool is the voter registration list.

"There are a lot of senior citizens that have difficulty making the court dates and actually serving," Scott said. "I don't think there would be a large number."

But several legislators on the committee said they had problems with the bill because of potential problems with limited jury pools in smaller counties and the need for people of all ages to serve on juries.

Rep. Mike Jones, R-Andalusia, said he's most concerned about jurors not really being a "jury of peers" if a certain age group has the option to opt out.

"I've tried a number of jury trials, and the best jurors you'll ever get on a jury pool are your seniors," Jones said. "They're more attentive, they're more involved in the case. They bring that institutional knowledge to almost every case. I would hate if we ever lost that group of peers."

Rep. David Standridge, R-Hayden, said the judge already has the option to let someone opt out of their service under certain circumstances. He said he's concerned that if people have that option, they'll opt out rather than come to the courthouse in the first place.

But Rob Sachar, the court administrator for the Montgomery County Circuit Court, said something has to be done. He said he gets calls every day from nursing homes, care providers, family members and seniors themselves who are worried that they're going to get in trouble or be picked up by the sheriff if they can't make it.

"They call in and they're so worried and upset," Sachar said. "I hate to put that stress on them. We upset them for no reason at all."

Sachar said there are a lot of people in their early 70s who do want to come in and serve. But it's hard on older people because there's a lot of sitting and waiting.

“It commendable to those who want to do their duty, but it’s unfair to put that burden on them,” he said.

When someone younger than 75 calls in, he listens to what they have to say and then makes a decision about whether to excuse the person. But he said anyone over 75 he automatically excuses them if they ask.

Federal courts don’t summon anyone older than 70 years old. Sachar said the state should definitely excuse people after a certain age, but he’s not sure if that should be 70, 72 or 75.

Sachar also said he gets calls from relatives of people who’ve been summoned for jury duty even though they died more than a year ago. He said a few months or even six months is understandable, but there are people who aren’t taken off the voter registration list after they die.

Gil Jennings, of Hope Hull, said he’s been called to jury duty many times in his life. He said he doesn’t think anyone should be able to opt out.

“I think it’s a responsibility of citizenship, and they can’t give up their responsibility,” Jennings said. “As long as a person is physically and mentally healthy, they should have that responsibility. They can already get out if they’re ill or incapacitated.”

Rep. Paul DeMarco, R-Homewood and chairman of the House Judiciary Committee, said he thinks sending the bill to a subcommittee would give them an opportunity to address other issues with jurors that haven’t been addressed in a long time, such as participation and pay.

“It’s hard to get folks to serve, and we need the public to serve on juries,” he said.

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Quiet looms at State House: Controversy avoided in regular session's first half, but several challenges lie ahead

Montgomery Advertiser

February 23, 2013

Kala Kachmar and Brian Lyman

Elections aren’t known for having any calming effects on politicians.

But at the midway point of the 2014 Regular Session — and with Alabama’s primaries a little over three months away — state lawmakers have thus far avoided the bruising fights of recent years.

Republican leadership in both chambers has, to this point, kept controversial issues on the sidelines, while minority Democrats have, for the most part, stayed away from filibusters. Senate President Pro Tem Del Marsh, R-Anniston, said Thursday he “hopes to continue on that track” as the Legislature begins the second half of the session.

“I want to try to get through the session a little earlier to allow people to get back to their districts and campaign this election year,” he said. “But I think we’re going to have a very productive election year.”

Democrats and Republicans say the session this year has been less contentious than previous years, when lawmakers clashed and, in a few instances, screamed over bills prioritized by the GOP’s commanding majority in both chambers.

“We are communicating better,” said Senate Minority Leader Vivian Figures, D-Mobile. “The times where there was miscommunication, we got a little rattled, but we managed to bring things back. And I think that’s because of the level of respect between Sen. Marsh and myself.”

Rep. Greg Wren, R-Montgomery, said there aren’t as many “big picture” bills in this current session.

“I think the Legislature has (passed) so many significant policy initiatives the last three regular sessions that it appears most folks are delighted about taking a deep breath and dealing with more mundane issues,” Wren said.

Bumps ahead?

Lawmakers also acknowledged that the fragile peace could shatter in the second half, as the budgets and potentially controversial legislation emerges from committee and hits the floor.

The General Fund budget, which moved out of House committee last week, still has some unsettled issues, including funding for the Department of Corrections. The major question on the Education Trust Fund budget, scheduled to appear in Senate committee Wednesday, is the size and scope of a potential pay raise for teachers.

This week, the House Health Committee passed four controversial abortion bills that may cause some delays in passage on the floor. Two other bills dealing with religion in school — one that would re-enforce students’ rights to free expression and another that would force public teachers to read prayers verbatim — may also cause delays.

House Minority Leader Craig Ford, D-Gadsden, said many of the bills are likely to be challenged in court.

“State government can’t supersede the federal government, and they’re just passing election-year bills,” Ford said. “They know they’re unconstitutional. There are a lot of Democrats that are pro-life, but we also don’t want to waste taxpayers’ dollars defending these bills.”

House Speaker Mike Hubbard, R-Auburn, said Republicans have taken on tough issues over the past four years, and they’re not going to stop because it’s an election year.

“If you didn’t pass a bill because you were afraid it was going to be challenged in court, you wouldn’t pass a bill,” Hubbard said. “We obviously don’t want to waste money. (But) they’re going to be challenged, and there’s no doubt about that.”

The Senate, which featured a shouting match between lawmakers last year over the Alabama Accountability Act, has been more or less functional after a filibuster on the first day by Sen. Rodger Smitherman, D-Birmingham. Smitherman has slowed business down over opposition to a bill that would expand membership on the Birmingham Water Works Board, but the chamber has been able to move legislation through without major fights.

“We haven’t had major, major bills that deal with major issues pushed down our throats, as we have in the past,” Figures said. “So I’m grateful for that.”

The one exception to the relative harmony was passage of a bill known as the Revolving Door Act, sponsored by Marsh. The legislation, designed to prevent lawmakers from lobbying either chamber of the Legislature for two years after they leave, had broad support, but Democrats on Feb. 4 managed to push through an amendment sponsored by Sen. Hank Sanders, D-Selma, that significantly broadened the scope of the bill to include other ethical issues.

“That was an effort to kill the bill rather than pass it,” said Sen. Dick Brewbaker, R-Montgomery. “Other than that, both sides have tried to stay toward the middle, and that’s a good thing, rather than the political gotcha-ism that characterized their legislative initiatives in the past.”

Marsh said he expects the legislation to come back to the Senate in its original form, though he acknowledged getting it through could be a challenge.

“Quite honestly, if Sen. Sanders wants to deal with those issues, let him get into his own bill,” he said. “I’m not going to jeopardize my bill, which was intended to do one thing.”

Settling raises

In his State of the State address on Jan. 14, Gov. Robert Bentley called for a 2 percent pay raise for teachers, an idea that was met with caution from a number of legislators. Lawmakers have said that a raise for teachers is more likely than one for state employees, but Marsh said he had “no idea” where they were on the possibility of a wage increase.

Teachers and education employees received a 2 percent cost-of-living adjustment in the budget approved last year, but state employees have not seen a similar adjustment in years.

Hubbard said the goal is to get the budgets in order early enough to give time for lawmakers to review the documents and share their thoughts.

“We want everyone to have input and know exactly what they’re voting on,” he said.

Sen. Quinton Ross, D-Montgomery, remained optimistic that state employees would get a pay raise.

“Anything can happen,” he said. “It’s an election year. Some of those people who are Republicans who say it can’t happen, they will have to face their voters at the polls should it not happen.”

But lawmakers were working on the General Fund “completely without a net,” Brewbaker said.

“We’ve got to get it right or we’ll move into proration, and nobody wants that,” he said. “That’s why I don’t think you hear criticism from the other side about bringing the budgets forward. Because they’re on the committees, too, and they know there’s not an easy (solution).”

Beyond the budgets, there was a general hope that the Legislature would finish its work without major controversy.

“It’s an election year, and that means everyone wants to keep things on an even keel,” Ross said. “You don’t want anything to jump up and bite you after you go back to your district in an election year.”

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Discussions, but no legislation, to update state’s economic incentives

Decatur Daily

February 23, 2014

Mary Sell

MONTGOMERY — The state is spending about \$54 million to bring Remington Outdoor Co. to Huntsville, a wise investment to attract more than 2,000 jobs, officials said.

Most of that amount, about \$38 million, will help the company redo and equip the former Chrysler electronics plant where Remington is locating. It will be funded through the Alabama Capital Improvement Fund, the pot of seed money created in 2000 to help finance incentives through bonds.

In the future, some lawmakers and leaders would like to see the state change how it incentivizes growth. The goal: more tax incentives based on job creation and less debt for the state.

"We need to shift our incentives payments from being driven by issuing debt in order to turn around and incentivize companies with cash dollars," state Sen. Arthur Orr, R-Decatur, said last week.

Several states have passed legislation that allows a partial refund to the company on the income taxes paid by employees, said Orr, chairman of the Senate general fund budget committee.

"The good thing about that is you're only talking about new jobs coming into the state that wouldn't have been there before; you're not going into existing revenues," Orr said. "In Alabama, what we're doing, we're issuing bonds to the public, and then we have to pay those bonds back."

The Department of Commerce is evaluating new approaches on incentives.

"We have seen other states create more incentives that rely less on debt and more on tying the source of incentives to tax streams that benefit from economic activity," Commerce Secretary Greg Canfield said. "Alabama, to remain competitive and keep our incentive base sustainable, must look at funding incentives in similar fashion."

Currently, the state issues bonds out of the Alabama Capital Improvement Fund to support much of the incentives, including those going to Remington. It is funded through royalties paid to the state on natural gas and oil wells in state-owned waters along the coast.

The fund had about \$11.3 million in it, the governor's office said last week.

"We have ample funding for any and all obligations to which we have entered project agreements," Canfield said.

No legislation has been introduced in this legislative session that after this week will be nearly two-thirds complete. The governor's office said last week that none was in the works this session. But lawmakers say they have been approached about some ideas and are receptive.

"Greg Canfield mentioned earlier in the year that they were working on a package," House Majority Leader Micky Hammon, R-Decatur, said Thursday. "(Commerce knows) what it needs. They are in communication with these companies, and they know what other states are doing. We're just waiting to see their proposals."

Rep. Lynn Greer, R-Rogersville, said he'd like to see the money come out of companies' tax obligation and not existing dollars.

"The industry we have today, we definitely wouldn't have without incentives," Greer said. "Alabamians' work ethic and good quality of life here aren't enough."

"To get industry, you have to put some money up," he said. "They don't come to us just 'cause we're good ol' boys."

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Sexual abuse by guards at Tutwiler Prison for Women could lead to federal takeover, loss of some funding

Al.com

February 23, 2014

Kelsey Stein

The state of Alabama risks losing some federal funding for prisons if it does not properly respond to questions about sexual abuse at its facilities, according to the U.S. Department of Justice.

The DOJ last week sent a letter to all state governors, including Gov. Robert Bentley, asking for confirmation that they are complying with the Prison Rape Elimination Act. The federal law, enacted in 2003, aims to eliminate sexual violence against inmates and details national standards and policies for curbing such abuse.

It is not – in a prison system that is projected to spend more than \$400 million next year – a substantial amount of money. Jennifer Ardis, spokeswoman for Bentley, said it amounts to \$219,700. She said the governors were all asked to declare whether their state was PREA-compliant, or whether they needed more time. They must respond by May 15 or risk losing the money.

"Prison rape and abuse is unacceptable, and we are taking appropriate steps to make Alabama facilities safer for inmates, staff and the public," Ardis said. "We will continue to review the DOJ letter, and will respond by the May 15 deadline."

Alabama, however, has faced other scrutiny about rape and sexual abuse in its prisons, particularly at its women's prison in Wetumpka.

A month has passed since U.S. officials declared the conditions to be unconstitutional at Julia Tutwiler Prison for Women. A DOJ report released Jan. 17 outlined allegations of prison guards demeaning, harassing and sexually abusing inmates for nearly two decades.

The 36-page report highlighted the findings of an April 2013 investigation and condemned the "toxic, sexualized environment" at Tutwiler. The violations range from verbal abuse and voyeurism to forced sexual contact between prisoners and Tutwiler staff members, according to the report.

[MORE: Tutwiler prison employees charged with sex crimes against inmates typically pleaded to lesser charges, records show]

Accompanying those issues, a review of Tutwiler statistics provided by the Alabama Department of Corrections shows that the facility is far above designed capacity and at slightly more than half its authorized staffing level. Those issues are not unique to Tutwiler, as statistics show corrections facilities throughout the state similarly overcrowded and understaffed.

The Department of Corrections is working to address the problems at Tutwiler, and the governor is urging changes, Ardis said.

Bentley has not visited the prison, but Ardis and other staff members have.

"After the original EJI complaint was filed, the department asked an independent agency, the National Institute of Corrections, to come in and look at the facility," she said. "The NIC issued a report last January that detailed 58 specific recommendations. To date, 57 of those recommendations have been implemented and the 58th is currently underway. The governor takes the allegations of sexual misconduct seriously, and it will not be tolerated in Alabama's prisons. We will continue to work to make the facility better for inmates and staff."

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Education budget on deck in Alabama Senate; teacher pay raise 'going to be difficult'

Al.com

February 21, 2014

Mike Cason

MONTGOMERY, Alabama --- The Alabama Senate's education budget chairman said a 2 percent pay raise for teachers requested by the governor is in doubt.

Sen. Trip Pittman, R-Montrose, plans to move a proposed budget out of the committee Wednesday. Senate President Pro Tem Del Marsh, R-Anniston, said the Senate could debate the spending plan on Thursday.

“It looks like it’s going to be difficult to do a 2 percent pay raise,” Pittman said Friday.

Henry Mabry, executive secretary of the Alabama Education Association, which represents teachers and school employees, said it would be “punitive” not to give educators a raise.

A 2 percent raise for teachers and support personnel in K-12 schools and two-year colleges would cost about \$76 million, according to the Legislative Fiscal office.

The Legislature is expected to have about \$135 million more to spend next year than in this year’s \$5.8 billion budget. Pittman said demands for new money far exceed that amount.

The Public Employees’ Health Insurance Plan faces a projected \$220 million shortfall next fiscal year, and part of that is expected to come from the education budget.

Among other new demands on ETF money are \$24 million for the Prepaid Affordable College Tuition plan, a requested \$14 million increase for the Department of Human Resources and a requested \$10 million increase for pre-kindergarten.

“So that’s the hardest thing,” Pittman said. “Choosing the priorities and how to allocate the priorities.”

Next year, the state must finish repaying \$437 million borrowed from the rainy day account in the Alabama Trust Fund five years ago. How much that will cost is a moving target. Gov. Robert Bentley’s budget calls for \$27 million next year, but Pittman said it could take closer to \$62 million. It depends on how much the state can repay this year.

“That’s the great uncertainty. We’re passing a budget that doesn’t start until Oct. 1,” Pittman said.

The AEA's Mabry said there should be no uncertainty about a raise. Teachers and support personnel received a 2 percent pay raise this fiscal year, their first since 2007.

“The governor said there is money for a raise,” Mabry said. “The budget office said there was money for a raise. There should be absolutely no problem in providing a raise for teachers, education support workers and retirees.

"If they don't give educators a raise and retirees a COLA, they're just being punitive. That would be the same song, fourth verse from this crowd."

The AEA has clashed repeatedly with the Republican-led Legislature since the GOP took control of the State House in 2010.

The AEA is calling for a 6 percent raise for teachers and support workers and a 6 percent cost of living adjustment for retirees.

In 2011, the Legislature passed the Rolling Reserve Act, which caps spending from the ETF each year based on revenues of the previous 15 years. The law is intended to prevent overly optimistic budgets that lead to mid-year proration and to build a reserve.

Bentley proposed to fund the teacher pay raise next year by going around the Rolling Reserve cap. He proposed spending \$92 million in sales tax revenues without first putting it in the ETF.

Republican leaders in the Senate have not said they would go along with the governor's move. That's another issue that could be hashed out next week.

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Alabama law bars unauthorized surveillance in private places, public spaces fair game

Al.com

February 23, 2014

Brian Lawson

HUNTSVILLE, Alabama -- In a world where most phones double as cameras and people share the results of their latest doctor's visit on Facebook, is an expectation of privacy still possible?

Under Alabama law it is.

The state has laws against eavesdropping and surveillance, with the key elements being "trespassing" and "private place." For instance, the law bars someone from "intentionally" engaging in surveillance while trespassing in a private place.

Surveillance is the "secret observation" of a person's activities with the purpose of spying on and "invading the privacy" of the person under observation.

The law also lays out what it means by "private place."

"A place where one may reasonably expect to be safe from casual or hostile intrusion or surveillance, but such term does not include a place to which the public or a substantial group of the public has access," according to the Code of Alabama 13A-11-30.

Simply put, if you're out in public, there is no bar to your being watched in Alabama.

On the other hand, a neighbor is entitled to maintain a video camera that watches his porch, but he can't cross the imaginary line and point his camera at his neighbor's window, said Rex Reynolds, former Huntsville chief of police and public safety director.

Protection against being filmed also extends to a locker room or dressing room, Reynolds said.

"That's out of bounds," he said. "A dressing room, a locker room, there's an automatic expectation of privacy."

Huntsville YMCA CEO Scott Mounts said the YMCA has numerous cameras at its facilities but draws the line at areas where privacy is expected.

"We have a lot of security cameras throughout child care centers and throughout our facilities," Mounts said. "One thing we don't do is invade anybody's privacy by putting cameras in locker rooms, shower areas or bathrooms."

"It's just not done, it's not the right thing to do."

Mounts said the YMCA does have cameras strategically placed "just outside locker rooms" in case a theft is reported. He said employees can pull out the video from a designated time frame and identify who was coming in and out of the locker room.

Madison County District Attorney Rob Broussard said the expectation of privacy does not extend to public places or "what can be seen from a public place." Broussard said cameras mounted in public places are the equivalent of an officer on a stakeout and search warrants are not required.

"It's called the plain view doctrine," the DA said. "The requirements are if somebody is in a location they have the lawful right to be, or they are allowing the Huntsville Police Department to sit on their front porch, then they have a lawful right to be here. And if in plain view they are able to see something plainly illegal, it's a good search."

Broussard said he feels there is a distinction between an expectation of privacy and the idea of being watched the entire time you're out in public.

"Having cameras everywhere, strictly from a law enforcement point of view, having a tape of criminal wrongdoing in hopes of having a stronger case, it's a great thing," Broussard said.

"From an American citizen point of view, I fully understand it's a little bit unnerving to think more often than not I'm on a camera somewhere."

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Gov. Robert Bentley named co-chair of Appalachian Regional Commission

Al.com

February 23, 2013

Mike Cason

The Appalachian Regional Commission has named Alabama Gov. Robert Bentley as its co-chair for 2014.

Bentley co-chaired a meeting of the commission Sunday during the National Governors Association winter meeting in Washington, D.C., according to a news release from the governor's office.

The Appalachian Regional Commission is a partnership of federal, state and local government that promotes economic development and provides funding for several hundred projects every year.

Bentley's focus for 2014 will be helping victims of domestic abuse in Alabama's Appalachian region counties, the news release said. Thirty-seven Alabama counties are eligible for ARC funding.

The Alabama Department of Economic and Community Affairs coordinates the ARC program in Alabama. ADECA Director Jim Byard Jr. will serve as the governor's alternate to the commission.

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Three candidates for Alabama governor support vote on state lottery

The Associated Press

February 22, 2014

MONTGOMERY, Alabama — Three candidates for governor are running on state lottery platforms and gambling that Alabama voters have changed their views since rejecting Gov. Don Siegelman's lottery plan 15 years ago.

Both Democratic candidates for governor, former U.S. Rep. Parker Griffith of Huntsville and Fayette businessman Kevin Bass, are proposing a lottery to pay for college scholarships, and one of the three Republican candidates, former Morgan County Commissioner Stacy Lee George, is proposing a lottery to pay for scholarships and several other programs.

They hope the lottery issue will make them stand out against a Republican incumbent with a \$3 million fundraising lead and a hands-off approach to a lottery.

"It's going to be very difficult," Griffith acknowledged in an interview.

Creating a lottery in Alabama requires an amendment to the Alabama Constitution. The Alabama House and Senate must approve it first, and the voters statewide must pass it.

Democrat Siegelman got elected governor in 1998 by promising to create a state lottery. He got his plan through the Legislature, but voters rejected it in a statewide referendum in 1999 after a campaign funded in part by out-of-state gambling interests trying to avoid competition.

Siegelman sought re-election in 2002 using the lottery as his issue and lost to Republican Bob Riley. The Democratic nominee for governor in 2010, Ron Sparks, ran on a lottery platform and lost to Republican Robert Bentley.

In 2010 and again in 2014, Bentley says a lottery is not his issue.

"That is up to the Legislature. That's a constitutional amendment. I don't even sign a constitutional amendment," Bentley said.

Bentley said he wouldn't fight a lottery constitutional amendment in the Legislature. "I always believe in the people's right to vote," he said.

But he said he would vote against it in a statewide referendum. "I don't think gambling is the way to fund education," he said.

As a private citizen, Bentley voted against Siegelman's lottery plan in 1999.

Siegelman is now in federal prison on a bribery conviction related to his lottery campaign, but candidates advocating a lottery say the public's views about a lottery have changed since Siegelman's times.

George said he joined many other citizens in voting against Siegelman's lottery because it lacked transparency, but he predicted a new lottery plan with plenty of public scrutiny would pass.

"The bottom line is folks, Alabama defeated the lottery 15 years ago and it's time we voted on it again," George said.

Candidates also say Alabamians have had plenty of time to watch and play the lotteries in Florida, Georgia and Tennessee.

Bass said he didn't vote on the 1999 lottery plan because he was living in Arizona and playing minor league baseball. He said rising college costs and increasing college loan debt have fueled changes in public attitudes about lottery scholarships. "They are seeing surrounding states have benefited from it," he said.

Griffith, who voted for Siegelman's lottery plan, said the Alabama car tags at lottery outlets across the state line demonstrate that attitudes have changed since 1999.

"When you see the numbers of people going to the borders of Alabama spending their money on education lotteries in other states, we have no business without an education lottery," he said.

One candidate for governor has the opposite view. Bob Starkey, a retired software developer from Scottsboro, said he voted against Siegelman's plan and remains opposed to creating a lottery or expanding gambling in Alabama.

"It's an ideal place for more corruption, and you are taking money out of the pockets of people who can least afford it," he said.

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Fact is, Alabama remains firmly in control of our public schools (Opinion from State School Superintendent Tommy Bice)

Al.com

February 23, 2014

John Adams, second President of the United States, is attributed with the following quote, "Facts are stubborn things: whatever may be your wishes, our inclinations, or the dictates of our passion, they cannot alter the state of facts and evidence."

This quote seems most appropriate in the midst of the ever-increasing amount of misinformation circulating throughout our state regarding the "Common Core." The term "Common Core" has come to stand for all that is perceived as evil regarding the federal government and almost anything else that can remotely be attached to "it" politically. In a recent Alabama State Board of Education meeting "it" was credited with things as obscure as retinal scans being conducted on students to measure their emotions and reported to the federal government to removing classical literature from Alabama classrooms – both simply false.

However, the members of the Alabama State Board of Education and I take our responsibility seriously and have listened to each and every concern, even those without any basis or evidence and, as a result, have taken the following actions:

- Strategically chose to not participate in either of the federally funded Race to the Top Common Core Assessment Consortia but rather followed the recommendation of the Alabama Assessment and Accountability Taskforce to adopt the ACT and its related assessments for Alabama as it creates an aligned assessment system for K-12, our two- and four-year colleges, and business and industry.
- Strategically deferred from applying for a federally funded Longitudinal Data System Grant to ensure state control of our student data system. The result is a state-developed and state-owned student data system managed through the Alabama Supercomputer Authority.
- Adopted a Statewide Data Use and Governance Policy to ensure that not only our internal data system remains secure and meets all FERPA requirements, but that all contracts and agreements with third-party vendors or service providers meet those same privacy expectations.

- Appointed a State Data Privacy Officer to oversee our internal data system, review all contracts and agreements that include student data, and provide guidance and training to our local school systems on the development of their data use and governance policies.
- Rescinded the original Memorandum of Agreement between the Council of Chief State School Officers and the National Governors Association executed for the development of a set of Common Core State Standards. This was the only signed agreement associated with the Common Core State Standards, but it had no binding authority past the development process, yet the State Board felt it important to rescind it in good faith to those concerned that it had governance authority.
- Conducted a mid-implementation review of Alabama College- and Career-Ready Standards based on input from Alabama teachers, leaders, and others. This review was conducted by the same group of Alabama professionals who made the original recommendation for adoption in 2010. Their recommended changes to the standards were completed and adopted by the Alabama State Board of Education in January of 2014 with no permission sought nor needed from any outside entity.
- Removed, as part of the standards revision process, Appendix B from the English/Language Arts Course of Study that included exemplars incorrectly referred to as a required Common Core reading list. These decisions rest at the local level as one part of the local curriculum and instructional resources development process.
- At no time throughout this years-long process of work did the Alabama State Board of Education or the Alabama State Department of Education seek or require approval from the United States Department of Education, the Office of the President of the United States, or any other professional organization or philanthropic foundation. Each and every decision by the State Board was based on recommendations from Alabama teachers, administrators, and professors who are experts in their individual fields of academia.

So it should be no surprise that I continue to be perplexed about this continual debate about federal overreach, indoctrination, data mining, etc., based on the facts that I have just presented that state otherwise. I am equally as perplexed that in recent forums conducted around the state "experts" who have spoken against our work here in Alabama were all from outside our state and have never spent one second in an Alabama classroom, yet they had much to share about what our teachers and leaders were doing?

And, finally, I am most perplexed because the facts as they apply to the state of Alabama are clear – we have not relinquished state control of our public education system to anyone but rather on three occasions adopted a resolution affirming the Alabama State Board of Education as the "sole and exclusive entity vested with the authority, without restriction, to adopt or revoke all academic standards in all subjects for students in the public schools of Alabama, without direct or indirect pressure or coercion by the United States government or any of its subdivisions." I am not sure how much more direct that could be stated!

Facts are stubborn things and there you have them.

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Shelby says health care law is on minds of Alabama workers

Tuscaloosa News

February 21, 2014

Patrick Rupinski

VANCE | U.S. Sen. Richard Shelby, R-Ala., said he hears a common worry as he travels across the state — concern about the federal Affordable Care Act.

“Everywhere I go, workers are bringing up the Obama health care law,” Shelby said as he finished a tour Friday afternoon of the Mercedes-Benz U.S. International auto assembly plant.

Shelby, a Tuscaloosa resident, said he tries to visit work sites in every county in the state regularly to find out what lawmakers in Washington should or should not do to help businesses to create more jobs.

He said the controversial health care law will be a major campaign issue during the nation’s mid-term elections this fall. Republicans will mention the problems the law is causing, he said.

In addition to the health care law, other issues in this fall’s elections will be the size of the federal government, increased federal regulations and President Barack Obama’s use of executive orders to bypass congressional action.

The GOP hopes to win a majority in the U.S. Senate in the November election. Democrats hold most of the 35 seats that will be on ballots across the country, he said.

U.S. Sen. Jeff Sessions, R-Mobile, is one of the senators up for re-election this year but has no Democratic opponent.

Shelby’s fifth six-year Senate term will not expire until 2016. When asked if he would seek a sixth term in 2016, he replied that he probably would run again but noted that election is still 2 1/2 years off.

He said his membership on the Senate’s banking and appropriations committees has allowed him to help the state economically and that he would like to continue to use his influence to aid the state.

The senator said it had been about four years since he last toured the Mercedes plant and that he was impressed by its expansion and its new production line, which will start making C-Class sedans this year.

“They have created a lot jobs and opportunities here,” he said, noting the Southern auto industry has outperformed its Northern counterparts.

Shelby said he was glad workers at the Volkswagen auto plant in Chattanooga, Tenn., voted against joining the United Autoworkers Union last week and said he saw no benefit from having the union.

He said Alabama's growing auto industry has done well and has added more jobs and seen more investment by the auto industry because of its union-free environment.

The UAW currently has a campaign to try to unionize the Mercedes plant. The union has filed a National Labor Relation Board complaint against Mercedes' plant management, alleging they have tried to prevent workers from discussing a union.

A hearing on that complaint will be heard by the NLRB in April and the results of that hearing could influence what happens next with the organizing campaign at Mercedes.

Shelby said he is concerned about President Obama's attempt to put people on the NLRB without Senate confirmation.

"He is trying to illegally stack the NLRB. It is part of a political payoff," he said, noting the courts will have to rule on the constitutionality of the latest appointments.

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Alabama GOP removes three more from June primary ballot

The Associated Press

February 21, 2014

MONTGOMERY, Alabama — The Alabama Republican Party is removing three other candidates from its June primary ballot in addition to Baldwin County circuit judge candidate Ginger Poynter after finding them ineligible.

The state GOP announced the decision Friday following hearings by the party's candidate committee.

The committee voted to remove Jefferson County circuit judge candidate Jim McFerrin; state auditor candidate Ray Bryan; and party executive committee candidate Jamie Wilkins.

The committee will hear challenges to other candidates on Saturday.

Party Chairman Bill Armistead says challenges were filed against a total of 18 primary candidates. Armistead says challengers claimed candidates were ineligible for several reasons.

Some challenges involved claims that candidates supported Democrats in past general elections or took money from the Alabama Education Association.

The party isn't saying what led to the removal of the four candidates.

The Mobile County GOP may also remove a candidate for sheriff from the ballot.

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Bryan out as GOP candidate for state auditor

The Anniston Star

February 22, 2014

Tim Lockette

MONTGOMERY — Anniston lawyer Ray Bryan won't be on the ballot for state auditor as a Republican, the party's leadership announced Friday.

In an announcement emailed late Friday afternoon, the Alabama Republican Party headquarters announced that it "did not grant ballot access" to Bryan and three other Republicans — Baldwin County District Judge candidate Ginger Poynter, 10th Circuit judge candidate Jim McFerrin and state Republican committee candidate Jamie Wilkins.

Bryan was among 18 candidates whose status qualifications to run as Republicans were challenged after the sign-up period to run in the 2014 elections ended Feb. 7. Party chairman Bill Armistead told *The Anniston Star* earlier this week that all 18 were challenged by other party members, and that those challenges would be reviewed this weekend.

Party officials have never publicly stated what grounds any complainant had for challenging Bryan's candidacy. Armistead said earlier this week that challenges to the 18 candidates were due to a variety of issues, including questions about residency, technical or paperwork problems or doubts that the candidates were truly Republicans.

Attempts to reach Armistead and Bryan were not immediately successful Friday afternoon.

Bryan announced his candidacy last year, saying if elected, he hoped to work for an amendment to the 1901 Constitution to abolish the state auditor's office. The office keeps track of all personal property belonging to the state with a value of more than \$500. Bryan said the office should be placed under the Examiners of Public Accounts, the auditing agency of the legislative branch.

Four Republicans and one Democrat remain in the race for state auditor. Independent candidates have until June to qualify to for the election.