

# WINDOM GALLIHER

## MONTGOMERY UPDATE

JANUARY 28, 2016

### Same as it ever was: Medicaid needs \$\$\$

#### Tough choices await legislators as they return for '16 session

How apropos that the 2016 regular session of the Alabama Legislature begins on Ground Hog Day. Bill Murray, who portrayed the weathered weatherman in "Ground Hog Day," faced the same day over and over again in that movie. If he cared about Alabama politics, he'd have to chuckle at the thought of what lies ahead.

And yet, here we are again.

Year Two of the quadrennium kicks off at high noon Tuesday, and in many ways it looks amazingly familiar. Medicaid and Corrections "need" money. Legislators aren't interested in raising taxes. The Speaker of the House Mike Hubbard (R-Auburn) is fending off legal troubles. And Alabamians' view of all things political is not particularly joyous.

There are some subtle differences, however. A year ago, Gov. Robert Bentley was aiming for the stars with the "big fix." He stumped the state, pushing a \$541 million revenue package that was aimed to fix the General Fund forever. His message was that repairing a broken house was a conservative value, but for all of his efforts, very few were buying. Certainly, a skeptical Legislature wasn't.

Perhaps that's why Gov. Bentley is tacking in a different direction in 2016. Last year he hinted toward a decision to expand Medicaid, and a task force he empaneled on health care made that recommendation. Another hint was that Gov. Bentley endorsed another Medicaid expander, Ohio Gov. John Kasich, for president. In recent weeks, the Governor has gone radio silent on the issue. As of late,



#### HOUSE GENERAL FUND BUDGET CHAIR STEVE CLOUSE (R-OZARK) DOESN'T SEE MOMENTUM FOR RAISING TAXES THIS YEAR

he seems to be attempting to reboot his image as a "jobs Governor," a favored rehab spot for ailing chief executives. Our belief is that he still has his eye on expanding Medicaid, but knows that the economy and employment always are safe and successful lanes to travel politically.

Medicaid, though, and its standing as the two-ton elephant in the General Fund budget, will continue to consume a lot of legislative oxygen. The regional care organizations, the reform mechanism to transform Medicaid from a "fee for service" model to an "outcome-based" model, are supposed to be operational by October 1, 2016. Many have concerns that the RCOs can pull it off, and there are some who want to make sure they don't. Some want failure as a means to expand Medicaid, while others want them to fail as a means to force commercial managed care as the ultimate Medi-

caid solution. Incongruent desires, for sure, but to pull the state hard in one direction or another the RCOs would have to fail. We believe that the RCOs are the right step – a hybrid, Alabama-based solution to the problem. As this plays out, the state's long-term care industry waits on deck to form "integrated care networks," which are that segment's version of an RCO.

At the recent legislative budget hearings, Medicaid Commissioner Stephanie Azar asked for \$157 million in additional appropriations, as well as 15 additional employees to help implement and regulate the RCOs. Her reception wasn't exactly warm. The door is by no means closed, but it will take extensive, detailed education to draw legislators into finding more money for Medicaid.

Another star of last year's show was the

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## Choices

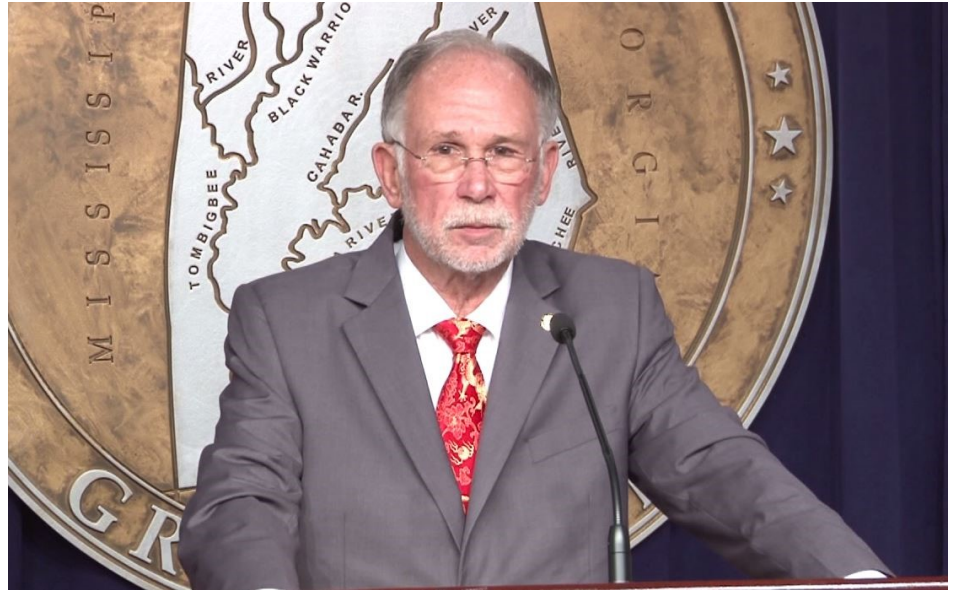
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Department of Corrections, which is entering the second year of “reform” under the massive prison reform overhaul passed in 2015. Recently appointed Commissioner Jeff Dunn says the state incarcerates approximately 24,000 inmates in facilities designed to hold 13,000. The new law will make a difference, but is still several months away – perhaps years – from having an impact. Dunn wants more capacity, but financial limitations endure.

We’ll be watching the impact of the Senate budget chair switcheroo. Sen. Trip Pittman (R-Montrose) will chair the General Fund budget committee, while Sen. Arthur Orr (R-Decatur) will chair the Education Trust Fund budget committee. Those seeking additional General Fund dollars will face even more scrutiny from Sen. Pittman, who has long been a zealous advocate of shrinking government, not expanding it. As for the education budget, the trust fund is not flush, but appears to be in solid enough shape to consider a teacher pay raise.

Although gaming issues never took hold in 2015 despite considerable chatter, Sen. Jim McClendon (R-Springville) and Rep. Alan Harper (R-Northport) have pre-filed bills calling for a “yes or no” vote on a state lottery. Unlike former Gov. Don Siegelman’s efforts in 1999, this would strictly authorize the creation of a lottery – not tie the money to any specific purpose (the now imprisoned Gov. Siegelman’s lottery would have been for college scholarships). Undoubtedly, a lottery would be an extremely heavy lift legislatively, but the recent \$1.5 billion Powerball jackpot has stoked again public flames in favor of a vote. Would the people vote for it given a chance? Polls say without a doubt. Will Sen. McClendon and Rep. Harper prevail? That’s an entirely different question as casino interests such as the Poarch Creeks and Milton McGregor sharpen their teeth for battle.

It will surely be discussed, as the likelihood of any additional revenue seems less than dim. Only a proposed change to the state’s gasoline tax – switching



**SEN. JIM MCCLENDON (R-SPRINGVILLE) HAS INTRODUCED A LOTTERY BILL, AS HAS REP. ALAN HARPER (R-NORTHPORT) — THE BILL WOULD CALL FOR AN UP OR DOWN VOTE**

from a flat rate to an index – seems possible. Those funds would be strictly earmarked for roads and bridges. And speaking of earmarking, the effort to unearmark certain funds is back. Sen. Cam Ward (R-Alabaster) had already dropped a bill, but he’s acknowledged it will have a tough time. As many learn in Montgomery, many are “for” unearmarking, but it doesn’t mean they’ll vote to do it. And many believe that earmarking is “evil,” but dedicating funds for a specific need is “good.” We guess it depends on “what the meaning of ‘is’ is.”

Senate President Pro Tem Del Marsh (R-Anniston) continues his push to reform education. He’s been working a piece of legislation that he calls the RAISE Act, which is a tenure/teacher pay reform bill. Currently, teachers earn tenure at the beginning of their third year in the classroom in any given school system. Teachers are also given step raises in three-year increments throughout their career.

Sen. Marsh’s original vision was to bifurcate the system, giving teachers the option to choose tenured or non-tenured employment tracks. The catch was that those who chose the safety of tenure would exchange some financial gain over the long haul. Teachers that chose the non-tenure track would be eligible for higher salaries, but without the safety net of essentially guaranteed employ-

ment. The latest word is that Sen. Marsh is leaning towards a bill that eliminates tenure for all future hires.

Although, the Alabama Education Association – the long-time nemesis of conservative reformers – is a shell of its former self, the major overhaul to teacher tenure isn’t seem as a slam dunk, despite the GOP supermajorities in both chambers. Many Republicans, particularly those from rural areas, haven’t had the same battles against the education community, as those from more suburban and urban areas.

AEA will try to fight Sen. Marsh, but it will need plenty of help. The creation of Dr. Paul Hubbert in the late 1960s, AEA became a political powerhouse and dominated state politics for 40 years. But as AEA and its parent NEA steered leftward, Alabama moved further to the right.

In 2010, the political world turned upside down as the GOP not only gained legislative majorities, but supermajorities. Curtailing AEA’s power was priority one for the GOP legislative leadership. This was achieved primarily through two pieces of legislation. The first prevented the state from collecting dues via payroll deduction for any outside organizations, and the second was the creation of a liability insurance program (which was

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## AEA

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one of the prime benefits of AEA membership). The two combined to strangle AEA. When the 2014 elections rolled around, AEA had two options: to sue for peace or to bet big with several expensive, long-shot legislative races. AEA chose to gamble and borrowed millions. As the debt soared, Dr. Hubbert, who had retired and was in failing health, pleaded for sanity. His voice went unheard. The AEA failed miserably, costing Hubbert's successor Henry Mabry his job, and left the organization drowning in red ink.

The NEA stepped in and took over as

AEA works its way out from the debt, but announced last week that it is out of the political contributions business for the time being. If that holds into next year, the 2018 cycle will begin without Democrats' primary source of campaign money as if they didn't have enough problems. But that's next year's problem.

As February 2 arrives, it seems certain that Speaker Hubbard hold onto the gavel is firm. There have been some that have worked behind the scenes to make a change, and Rep. Phil Williams (R-Huntsville) offered himself as a potential successor. The state GOP executive steering committee passed a resolution in a sharply divided vote to encourage the Speaker to step aside. The problem for those pushing the resolution was

that less than a majority of the committee voted for it. It was a 10 yes, eight no, and two abstention vote. Furthermore, two members weren't even on the call, held on a Sunday evening. Once the specifics of the vote emerged, the momentum the dissidents enjoyed began to fade. Even so, Speaker Hubbard's motion for a continuance was denied and the trial is slated to begin March 28, but Lee County Circuit Judge Jacob Walker acknowledged that appeals of certain rulings could delay the trial.

There's always a surprise – or two – in a legislative session. We're certain we'll see some this session. Rest assured, we will keep you up to do at the end of each week – and even more frequently, if events warrant.

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**Note:** The Windom Galliher Montgomery Update will publish weekly during the Legislative Session.