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Senate cranks it up in grand bargain quest

By Jim Broadway, Publisher, Illinois School News Service

While the Illinois House has scheduled [only a Rules Committee](#) meeting for next week (they're private, not open to the media or anybody), the Senate is in high gear with meetings of five committees [scheduled to convene Tuesday](#) afternoon, each of them holding bills that could be part of a "grand bargain."

The grand bargain has been described as including a full-year balanced budget for FY 2018, the fiscal year beginning July 1, and funding for the second half of FY 2017 now that the state's spending authority (for everything except PK-12 education and court-ordered funding) expired at midnight on December 31.

The Senate's [Appropriations I Committee](#) is poised to discuss funding for the last half of FY 2017 at 2 p.m. Tuesday. (You may be able to [monitor it here](#).) The panel is to hear [SB 6](#), which proposes to spend billions of dollars as that second-half budget for FY 2017. [SB 4](#), also on tap, would borrow \$7 billion toward that end.

The [Local Governments Committee](#) will convene to hear [SB 3](#), a bill to facilitate merging and dissolving local governmental units, which is on Gov. Bruce Rauner's wish list. The [Gaming Committee](#) will hear [SB 7](#) and its many provisions to victimize the math-challenged. The [Revenue Committee](#) hopes [SB 9](#) will stem the flow of red ink.

Each of those four committees has a name that sort of suggests what the topics of bills they consider will be. But there's another committee scheduled to meet Tuesday afternoon - the [Senate Executive Committee](#) - and that panel has more than 40 bills (most of them shell bills) "posted," eligible to be considered.

My guess is the discussion will be confined to the low-numbered bills that are seen as parts of the "grand bargain" effort of both Senate caucuses. [SB 8](#), for example, is a comprehensive proposal for procurement reform. It's a topic dear to Rauner's heart, as is [SB 11](#), a pension "reform" proposal Rauner also likes.

[SB 2](#) would gradually raise the minimum wage in Illinois to \$11 by 2021. That's not Rauner's favorite. It is a demand of the Senate Democratic caucus. [SB 13](#) would freeze property tax levies for two years; excluding that would be a deal-breaker for Rauner, but most legislators also see Illinois as over-relying on the property tax.

[SB 12](#) represents a lot of work [Sen. Michael Connelly](#) (R-Naperville) has done on workers compensation reform. [SB 10](#) is that complicated bill permitting home rule units to sell or in other ways "assign" to others their rights to revenue that they expect to receive from the state - among other provisions I don't understand.

That leaves school funding reform, which is currently nowhere. Obviously, it is intended to be housed in [SB 1](#) eventually. But SB 1 is still a shell bill, and no amendment is on file. This will be perhaps the most difficult part of the grand bargain package, but it is also generally agreed to be necessary for it all to work.

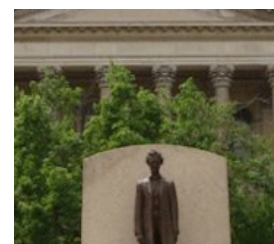
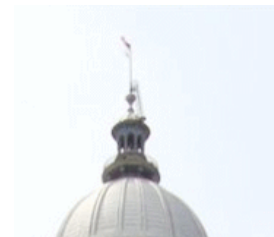
What makes it so difficult? The same things that have stalled it since the late 1980s and early 1990s, by which time it had become obvious that the quality of a child's education in Illinois depended on her parents' zip code; affluent communities have resources to spare, but kids in poor towns are educationally deprived.

No matter how school funding reform is accomplished, it will be more expensive than anything the government has done in decades. If it brings the poverty-stricken districts up to adequacy while adhering to a "hold-harmless" policy for affluent districts - as Rauner demands - that will take more truckloads of cash.

What makes it necessary? Can't they do all the reforms and the budget solution without fixing the school funding mess? In theory, that would be possible. But look at the summaries of the 13 bills that are parts of the grand bargain package. They are intertwined; the other 12 are all *contingent on SB 1 becoming law*.

Is the pension "reform" proposal constitutional? An ISNS reader posed that question. Didn't the Illinois Supreme Court already throw out this kind of thing, this attempt to "trade" one current benefit against another current benefit? I would want to argue that, but SB 11 differs conceptually from the bill that flopped in court.

There are honest reasons to believe that the court would find Senate President John Cullerton's current proposal valid, constitutionally sound. The best explication of that concept, I believe, is found in the [online essay of Eric Madiar](#), the lawyer who, as former counsel to Cullerton, wrote the original bill.



The bill that was ruled unconstitutional by the Supreme Court (SB 1 of 2013) just tried to save state funds by cutting the cost-of-living-adjustments (COLAs) for retirees. The COLAs are, statutorily, part of the pension benefits that, according to the constitution, "shall not be diminished or impaired."

SB 11 allows employees to keep their COLAs in retirement, but if they do that any raises they get in the meantime will not be included in the calculation of their pension benefits." Is this constitutional? Madiar says it is, because the pension law nowhere guarantees that all - or even any - pay raises must be "pensionable."

In objecting to SB 11, I might argue that the preponderance of precedent - that fact that pay increases have in the past had the effect of increasing pension benefits - mitigates against the bill. But some pay increases (late pay hikes of more than 6% for educators) have been statutorily excluded from the calculation.

Another argument against SB 11 could be that its enactment would delay its effect - and the effect of all the other bills that it is linked to by statute - for a couple of years while it is litigated. Ultimately, it's a very sticky issue.

Rep. Jeanne Ives continues to file bills. If you've recently checked [the web page](#) where I hope to keep a running tab of bills that would amend the School Code or otherwise affect schools and educators and children, you may have noticed some pretty aggressive measures have been added since last week.

There's [HB 442](#), for example. It's a mandate for local governments, including school districts, to wrestle a massive load of information onto their Internet sites. I overlooked it last week because it amends the Open Meetings Act, not the School Code. It's a huge headache created by Rep. Jeanne Ives (R-Wheaton).

Also overlooked last week was [HB 437](#), another proposal from Rep. Ives, which would prohibit employers of TRS pension system members from making pension contributions "on behalf of" an employee, except " for the sole purpose of allowing an employee to make pre-tax contributions." She does recognize that there are contracts this prohibition would affect, and she accounts for them by allowing them to continue unaffected through their expiration.

Some other interesting bills have been filed. [SB 82](#), for example, would allow Peoria School District to have its own police force. [SB 195](#) would shift the full "employer's" share of pension costs from the state to a district or other employer, but only for employees who are paid from federal or special trust funds.

Did you watch Tuesday's confirmation hearing for billionaire Betsy DeVos, President-elect Donald Trump's nominee for Secretary of Education, the nation's most powerful position in relation to public schooling? Neither did I. But our friends at "[Raise Your Hand](#)" did, and this is what they reported:

- *DeVos did not know about the federal laws that protect students with disabilities such as the Individuals with Disabilities Education Act, which passed in 1975 to ensure students with disabilities receive a free and appropriate education in public schools. She said this should be up to the states to decide.*
- *DeVos said states, not the federal government, should decide whether guns should be banned from schools.*
- *DeVos said she doesn't think all schools that receive public money- traditional, charter or private schools that receive voucher dollars- should be held to the same standards of accountability.*
- *DeVos didn't seem to know what the difference is between growth and proficiency in standardized tests.*
- *DeVos said she didn't know if she'd uphold current laws regarding sexual assault on college campuses.*
- *DeVos has given campaign donations to 10 out of 12 Republicans on the HELP committee who will be voting on her confirmation.*

And [here's another](#) eloquently written and documented critique that comes to the same conclusion, that Betsy DeVos is more likely to be a danger to public education than an effective advocate. Folks are being encouraged to contact Sen. Dick Durbin and Sen. Tammy Duckworth and urge them to oppose DeVos.

I'm sure they will vote "no" on DeVos - both are Democrats - but that she'll be confirmed by the GOP-controlled U.S. Senate anyway. But here are the numbers: Senator Dick Durbin - (202) 224-2152 and (312) 353-4952; Senator Tammy Duckworth - (202) 224-2854 and (312) 886-3506.

Next issue: Rauner's appointments have implications, among other topics.

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