

FINE GEDDIE

GOVERNMENT RELATIONS

THE FINE GEDDIE REPORT for the
Alabama Society of CPAs
2019 REGULAR SESSION · WEEK TEN
MAY 17, 2019

BUSY WEEK ON BIG ISSUES:

*Broadband Expansion, Education Reform,
Lottery, and Economic Development Incentives*

Again this week, lawmakers worked three full meeting days as they took action on broadband expansion, education reform, a state lottery, economic development incentives and budgets. Gov. Kay Ivey signed a near-total abortion ban, intended to help overturn *Roe v. Wade*. There had been no question of the bill's passage, but an amendment that would have allowed abortion in cases of rape or incest prompted intense debate on the Senate floor Tuesday. Business groups did not engage on the issue.

Most of the activity on **broadband expansion** stemmed from HB400 by Rep. Randall Shedd (R—Cullman), which was the subject of floor debate in the Senate Thursday. The bill would allow **electric utilities to use their easements to offer broadband service**, and senators adopted a floor substitute and then carried the bill over for further consideration. Separate legislation to allow **broadband infrastructure near railroad rights-of-way and crossings** also saw action. HB70 by Rep. David Standridge (R—Hayden) received a favorable report from the House Transportation, Utilities and Infrastructure ~~Committee~~, and it is pending third reading in the House with two amendments (amendment 1 and amendment 2). Its companion – SB159 by Sen. Donnie Chesteen (R—Geneva) – was the subject of a public hearing this week in the Senate Finance and Taxation Committee on Education, where it is pending.

Governance of K-12 education could change significantly pursuant to SB397 by Senate President Pro Tempore Del Marsh (R—Anniston). Subject to a statewide referendum, the bill would move Alabama to an appointed state school board rather than an elected one. Members of the renamed Alabama Commission on Elementary and Secondary Education would be chosen by the governor and confirmed by the Senate. Sen. Marsh's bill, which received a favorable report in the Senate Education Policy Committee on Tuesday, received its third reading from the Senate on Thursday and is now pending in the House Ways and Means Committee on Education. Sen. Marsh is also sponsoring a bill to require the

governor to consult with minority caucuses on these appointments, and SB398 is also pending in the same House committee.

The proposed statewide referendum to establish an Alabama **lottery** received committee approval this week, putting it a step closer to the ballot box. The House Economic Development and Tourism Committee gave a favorable report to SB220 from Sen. Greg Albritton (R—Atmore), and the bill is pending consideration by the House with a substitute and two amendments (amendment 1 and amendment 2). In its current form, the lottery is projected to generate \$167 million a year, with 75 percent of proceeds to the state's General Fund and 25 percent to the Education Trust Fund. SB220 is the first bill on the House Special Order Calendar for Tuesday.

The **Alabama Incentives Modernization Act** would revise state economic development incentives offered through the Alabama Jobs Act and the Growing Alabama Infrastructure Credit for the purposes of helping rural areas, boosting urban areas' appeal to tech companies and improving opportunity zones. HB540 by Rep. Bill Poole (R—Tuscaloosa) was substituted and received a favorable report in the House Ways and Means Committee on Education on Tuesday and then was approved on the House floor Thursday. The bill is pending in the Senate Finance and Taxation Committee on Education.

The **General Fund budget**, which originated in the House this year, received a favorable report this week in the Senate Finance and Taxation Committee on the General Fund. The committee-approved version totals \$2.136 billion, about \$10 million less than the House-passed version. It is expected that a conference committee will be necessary to resolve differences between the two houses. Sticking points appear to be funding for Medicaid and some state agencies. The **Education Trust Fund budget** – the larger of the state's two major operating budgets at \$7.126 billion next year – has passed the Senate and is now pending in the House Ways and Means Committee on Education.

With nine possible meeting days remaining this session, legislative leaders expressed their belief that a special session would be the best way to address the crisis in Alabama's overcrowded, understaffed prisons. Calling a special session is the governor's prerogative, and Gov. Kay Ivey expressed her commitment to work with legislators to handle immediate issues and longer-term concerns.

LIFETIME PISTOL PERMIT DISCUSSED

Establishing a statewide **lifetime concealed carry permit** administered by the Alabama Law Enforcement Agency was scheduled for a public hearing in the House Public Safety and Homeland Security Committee this week. HB595 by Rep. Proncey Robertson (R—Mount Hope), a bill supported by the National Rifle Association, would create a permit system that is parallel to the time-limited

permits issued by sheriffs. The bill does provide a revocation process for permit-holders who are convicted of crimes that would prohibit gun ownership. Robertson is a retired law enforcement officer. The bill is pending in the House Public Safety and Homeland Security Committee.

MARKETPLACE REFORM FOR ALCOHOLIC BEVERAGES

Creation of a task force to study the **direct shipment of wine** made progress this week. SJR64 by Sen. Jabo Waggoner (R—Vestavia Hills) passed the House on Tuesday and is pending with Gov. Kay Ivey. If approved, **statutory authorization** for direct shipment will likely be delayed. HB350 by Rep. Terri Collins (R—Decatur) to authorize direct shipment is pending third reading in the House with a substitute. Meanwhile, SB404 by Sen. Rodger Smitherman (D—Birmingham) would allow a small beer manufacturer to have a financial interest in a brewpub. The bill, after receiving its third reading in the Senate on Thursday with one amendment, is pending in the House Economic Development and Tourism Committee. In other action, **entertainment district** revisions advanced this week. The Senate voted third reading for SB276 by Sen. Smitherman (D—Birmingham), which is now pending with the House Economic Development and Tourism Committee. No action was taken on the companion, HB474 by Rep. Neil Rafferty (D—Birmingham), which is pending third reading in the House.

HEALTHCARE UPDATE

Pharmacy benefit managers would be required to register with the Alabama Department of Insurance pursuant to SB73 by Sen. Orr (R—Decatur) as substituted and amended in committee and further amended on the Senate floor (amendment 1, amendment 2). The bill, which received its third reading in the Senate this week, is pending in the House Insurance Committee.

SB245 by Sen. Tom Butler (R—Madison) would permit pharmacists to substitute **interchangeable biological products**, and it received a favorable report from the House Health Committee this week. The bill is pending third reading in the House. Another pharmacy measure moved forward this week, with HB69 by Rep. Arnold Mooney (R—Birmingham) receiving a favorable report from the Senate Healthcare Committee. This bill is pending third reading in the Senate.

TRANSPORTATION UPDATE

The Legislature gave final passage to a bill to lower the age of eligibility for certain **commercial drivers' licenses** received its third reading in the Senate this week. HB479 by Rep. Dexter Grimsley (D—Newville) is pending with the governor.

HB404 by Rep. K.L. Brown (R—Jacksonville), intended to help reduce **distracted driving**, was debated on the House floor Thursday. The bill is currently carried over and Rep. Brown has a substitute prepared.

An update to the **one-call notification system** for underground utilities received a favorable report Wednesday from the House Transportation, Utilities and Infrastructure Committee. SB315 by Sen. Dan Roberts (R—Birmingham) is pending third reading in the House.

On Tuesday, Gov. Kay Ivey signed Act 2019-164, authorizing the state to **temporarily waive licensing requirements for importers, exporters and transporters of motor fuels** during a declared state of emergency or disaster. HB163 was sponsored by Rep. Steve McMillan (R—Bay Minette).

The **Railroad Modernization Act** would establish a state income tax credit for qualified expenditures. The House version of this proposal – HB457 by Rep. Rod Scott (D—Fairfield) as substituted and amended – received its third reading in the House on Tuesday. The bill is now pending in the Senate Finance and Taxation Committee on Education. The companion, SB185 by Sen. Bobby Singleton (D—Greensboro), is pending with the Senate Finance and Taxation Committee on the General Fund. Also related to rail transport, the **Safe Freight Act** would prohibit the operation of many trains unless there is a crew of at least two people. HB484 by Rep. Napoleon Bracy (D—Mobile) received a favorable report this week from the House Transportation, Utilities and Infrastructure Committee. The bill is currently pending third reading in the House.

SB268 by Sen. Orr (R—Decatur) to create a grant program for **inland port and intermodal facility enhancements** is at a standstill. As introduced, the ADECA-administered grant program would have received \$10 million from the Rebuild Alabama Fund, and the bill was later amended to instead draw support from the Public Road and Bridge Fund. The bill is pending in the House County and Municipal Government Committee, but as the session nears its conclusion, projects that had been in line for these grants are searching for other funding.

There was no action this week on legalization of **autonomous vehicles**, although HB160 by Rep. Joe Lovvorn (R—Auburn) as substituted and amended (amendment 1, 2, 3) is pending third reading in the House, and the bill is on the House’s Special Order Calendar for Tuesday.

EDUCATION UPDATE

A revised Alabama Literacy Act addressing reading proficiency in the early grades received its third reading in the House this week. HB388 by Rep. Collins (R—Decatur) is now pending with the Senate Education Policy Committee. HB216 by Rep. David Faulkner (R—Birmingham) would make **computer science** part of the mandatory school curriculum, and on Wednesday the

bill received a favorable report from the Senate Education Policy Committee with one amendment. HB216 is pending third reading in the Senate.

OTHER ISSUES TO WATCH

- HB600 by Rep. Steve Clouse (R—Ozark) would add the state’s veterans affairs commissioner to the **Alabama Job Creation and Military Stability Commission**. The bill, after receiving a favorable report from the House Military and Veterans Affairs Committee this week, is scheduled for floor consideration in the House on Tuesday.
- HB508 by Rep. McClammy (D—Montgomery), related to economic development near military bases, received a favorable report by the House Commerce Committee.
- HB225 by Rep. Adline Clarke (D—Mobile), to create a state cause of action related to **wage discrimination**, passed the House 98-0 on Wednesday. The version that passed does not apply to smaller businesses with less than 50 employees. Proponents of the bill have argued that Alabama is one of only two states (the other being Mississippi) without a similar law on the books. The bill is pending in the Senate Fiscal Responsibility and Economic Development Committee.
- A **reduction in unemployment compensation** is now pending with Gov. Kay Ivey. The House voted final passage for SB193 by Sen. Orr (R—Decatur) on Tuesday after several hours of debate.
- **The Financial Institution Excise Tax Reform Act of 2019** received a favorable report from the Senate Banking and Insurance Committee this week, and now HB419 by Rep. Kyle South (R—Fayette) is pending third reading in the Senate.
- The Department of Revenue would be required to develop a **financial institution data match program** to help facilitate collection of unpaid taxes under SB357 by Sen. Smitherman (D—Birmingham), which received a favorable report from the Senate Governmental Affairs Committee this week. The bill is pending third reading in the Senate, its house of origin.
- The **Protect Alabama Small Businesses Act** to regulate interactions between **franchisors and franchisees** is currently being negotiated. It is anticipated that a substitute to SB129 by Sen. Chris Elliott (R—Fairhope) will be considered by the House State Government Committee next week. The companion bill – HB352 by Rep. Connie Rowe (R—Jasper) – is pending third reading in the House. A substitute bill is expected.
- Businesses that would be negatively impacted by a state agency’s proposed rule change have a method to notify the state, forcing the agency to submit an **economic impact statement** to the **Joint Committee on Administrative Regulation Review**. SB 204 by Sen. Albritton (R—Atmore) would revise

this process and revise how state agencies respond to such notifications. The bill, which received a favorable report from the House State Government Committee on Tuesday, is currently pending third reading in the House.

- In **declared emergencies**, current law has an exemption allowing state entities to procure **professional services** without following **competitive bid** procedures. HB409 by Rep. Chris Pringle would delete the exemption for convenience purposes without altering the exemption for public health, safety and economic welfare purposes. The bill received a favorable report in the House State Government Committee on Tuesday, with an amendment to exempt emergency contracts from advertising requirements. The bill is pending third reading in the House.
- The **Asbestos Trust Claims Transparency Act**, requiring plaintiffs to disclose all viable asbestos claims, passed its third reading in the House on Wednesday. SB45 by Sen. Roberts (R—Birmingham) is now pending with Gov. Kay Ivey. Its companion – HB100 by Rep. Jim Carns (R—Birmingham) – received a favorable report from the Senate Judiciary Committee on Tuesday and is pending third reading in the Senate.
- SB279 by Sen. Smitherman (D—Birmingham) would establish permanent place names for the seats on **Alabama’s appellate courts**, and this week it received a favorable report from the House Constitution, Campaigns and Elections Committee. The bill is pending third reading in the House with one amendment.
- As amended in the House, SB198 by Sen. Orr (R—Decatur) would establish a nominating process for the **director of the Administrative Office of Courts**. The proposed constitutional amendment passed the House on Tuesday, and the Senate nonconcurred with the lower chamber’s changes and appointed conferees: Sens. Orr (R—Decatur), Sam Givhan (R—Huntsville), and Singleton (D-Greensboro). The House must appoint its three conferees before the conference committee can begin work.
- HB275 by Rep. Rex Reynolds (R—Huntsville), related to the interception of wire, oral and electronic communications (**wiretapping**), is on the House Special Order Calendar for Tuesday. A substitute had been adopted in committee.
- SB297 by Sen. Givhan (R—Huntsville) would increase the amount-in-controversy threshold for **circuit court jurisdiction** from \$10,000 to \$25,000. The bill received a favorable report Wednesday from the Senate Judiciary Committee and is pending third reading in the Senate.
- **Minimum qualifications for circuit and district judges** would increase with HB529 by Rep. Faulkner (R—Birmingham). The revised bill passed the House Wednesday and is pending with the Senate Judiciary Committee.
- HB226 by Rep. Jamie Kiel (R—Russellville), clarifying certain rules related to **certificates of title for manufactured homes**, passed the Senate on

Wednesday and is pending with the governor. Its companion – SB172 by Sen. Garlan Gudger (R—Cullman) – is pending consideration by the full Senate.

- Regulation of **alternative nicotine products (vaping)** received final passage in the Senate on Wednesday. HB41 by Rep. Shane Stringer (R—Citronelle) is currently pending with Gov. Kay Ivey.
- **Daily fantasy sports contests** would be legalized under HB361 by Rep. South (R—Fayette), which received a favorable report from the Senate Tourism Committee this week. It is pending third reading in the Senate.

The House and Senate will reconvene on Tuesday, May 21. There are 9 meeting days remaining in the 2019 Regular Session.