

FINE GEDDIE

GOVERNMENT RELATIONS

THE FINE GEDDIE REPORT for the
Alabama Society of CPAs
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*BROADBAND INTERNET SERVICE DOMINATES DEBATE
AT STATE HOUSE*

Just as high-speed internet access pervades every aspect of modern life, the issue of **expanding broadband service** in unserved and underserved areas of Alabama dominated the Alabama State House this week. Bills to allow electric utilities to use their easements to offer broadband service and to enlarge a broadband grant program both advanced, along with a historic \$7.1 billion education budget that sends \$20 million to the grant program. With half of the session's meeting days behind them, lawmakers will be increasingly focused on completing the state's two operating budgets while much work remains if they are to pass a state lottery and address prison concerns raised by the U.S. Department of Justice.

The **Broadband Using Electric Easements Accessibility Act**, sponsored by Rep. Randall Shedd (R—Cullman), passed the House of Representatives 92-2 after extended debate yesterday. The version of HB400 moving to the Senate incorporates several changes necessary to remove objections, including a ban on Education Trust Fund dollars for certain technology, clarifying language regarding state and county-maintained rights-of-way and a compromise to better accommodate small utilities.

Meanwhile, the Senate Committee on Fiscal Responsibility and Economic Development unanimously voted in favor of SB90 (as substituted) to expand and retool the state's **broadband accessibility grants**. The bill, sponsored by Sen. Clay Scofield (R—Guntersville), specifically expands the definition of "unserved area" used to determine grant eligibility, increases the percentage of project costs eligible for grant funding and broadens the permitted use of other federal and state support in grant projects. Most substantially, the substitute creates two additional grant award categories each of which is intended to incentivize data speeds exceeding the broadband minimums set in legislation. This legislation will be in position for a Senate floor vote next week, and Senate President Pro Tempore Del Marsh (R—Anniston) is sure to give the issue top priority. He released an op-ed Thursday calling for high-speed connectivity for every Alabamian.

The Senate made quick work of the **Education Trust Fund budget** – which supports education-related functions of state government – this year, moving it through committee and steering it through a floor vote in a single week. Senator Marsh (R—Anniston) lauded the budget, saying "This is the largest education

budget in state history, thanks to fiscally conservative practices over the past several years, we are able to budget over \$7 billion toward public education in Alabama.” Education employees are slated for a 4% pay raise next year, pre-K gets a \$25 million expansion and there are targeted increases for certain areas of K-12, including transportation. Still unresolved are concerns from some in the higher education community about how additional dollars were allocated among institutions, as well as funding for the Children’s Health Insurance Program (CHIP).

A proposed **state lottery referendum** overshadowed most other issues last week but garnered little attention this week. SB 220 by Sen. Greg Albritton (R—Atmore) has passed the Senate last week. House Speaker Mac McCutcheon (R—Huntsville) pledged to make it a priority, praising it as a “clean bill” that does not touch on other gambling issues. However, existing gambling operators are watching very closely to protect their share of the market – and keep their competitors at bay. The proposal’s fate in the House will be a statement not just on the lottery, but on the future of other gaming operations. Central to that question is whether the Atmore-based Poarch Band of Creek Indians, Alabama’s only federally recognized tribe, will have a monopoly on gaming operations in the state. The Poarch do not have a compact with the State of Alabama. From another angle, the proposed lottery has generated some pushback because the revenue would go into the General Fund budget, which supports most non-education functions of state government – including the **embattled prison system**. Over the last 20 years, other lottery proposals in Alabama have frequently been aimed at benefitting schools. However, Speaker McCutcheon (R—Huntsville) has said the aforementioned DOJ pressure on the state’s prison system may necessitate directing revenue to the General Fund.

The House has passed a **General Fund budget** for the upcoming year, and the Senate is expected to take it up soon. There are 15 meeting days left in the session, which must end no later than June 17. To fully utilize the remaining days, lawmakers will have to accelerate their usual weekly schedule – in session on Tuesdays, committee and caucus meetings only on Wednesday and in session again on Thursdays.

TRANSPORTATION LEADERSHIP SET

The **Joint Transportation Committee** of the Alabama Legislature came out of this year’s special session with a beefed-up role overseeing the Alabama Department of Transportation, and this week committee members selected Sen. Gerald Allen (R—Tuscaloosa) as their chairman. Sen. Allen is the longtime chairman of the Senate’s Transportation and Energy Committee. Other committee members are: Sens. Chris Elliott (R—Fairhope), Donnie Chesteen (R—Geneva), Tom Whatley (R—Auburn), Clay Scofield (R—Guntersville), Arthur Orr (R—Decatur); Cam Ward (R—Alabaster), Jabo Waggoner (R—Vestavia

Hills), Bobby Singleton (D—Greensboro), Clyde Chambliss (R—Prattville), David Sessions (R—Mobile), and Tom Butler (R—Madison); in addition to Reps. Margie Wilcox (R—Mobile), Dexter Grimsley (D—Newville), Ginny Shaver (R—Leesburg), Kerry Rich (R—Guntersville), Laura Hall (D—Huntsville), Corley Ellis (R—Columbiana), A.J. McCampbell (D—Gallion), K.L. Brown (R—Jacksonville), Rich Wingo (R—Tuscaloosa), Chris Sells (R—Greenville), Alan Baker (R—Brewton), and Randall Shedd (R—Cullman).

FLEET VEHICLES ARRIVE ON GOVERNOR'S DESK

Streamlined registration and licensing for fleet vehicles zipped forward again this week, earning final passage on the Senate floor yesterday. HB278 by Rep. A.J. McCampbell (D—Gallion) is now pending with Gov. Kay Ivey.

NOTEWORTHY LEGISLATION SIGNED INTO LAW

Gov. Kay Ivey signed bills regarding cybersecurity and the Contract Review Permanent Legislative Oversight Committee

Stepped-up **cybersecurity for the insurance industry** is now the law of the land, with Gov. Kay Ivey's signature on Act 2019-98 on Wednesday. The act, sponsored by Sen. Shay Shelnett (R—Trussville), gave the state insurance commissioner regulatory authority over data security.

Membership of the **Contract Review Permanent Legislative Oversight Committee** has been clarified to ensure that all four budget committee chairs – two from each chamber – will serve on the panel going forward, thanks to Act 2019-82, which Gov. Kay Ivey signed on Monday. Sen. Arthur Orr (R—Decatur) sponsored the measure.

HOT TOPICS IN HEALTHCARE

State services for **Alzheimer's disease and dementia** would shift from the Alabama Department of Mental Health to the Alabama Department of Public Health under SB330, introduced Tuesday by Sen. Greg Albritton (R—Atmore). In the House, Rep. Laura Hall (D—Huntsville) introduced the companion measure. In other healthcare action, if a patient is **unable to consent to medical care**, current state law provides a process for at least two medical providers to consent to necessary care on the patient's behalf. HB381, which would allow a nurse practitioner or physician assistant to be one of the decision-makers, earned a favorable floor vote in its house of origin this week, putting it past the halfway mark. The bill is sponsored by Rep. Wes Allen (R—Troy), a former probate judge. Meanwhile, a clarification to **hospital lien laws** (HB11) sponsored by Rep. Connie Rowe (R—Jasper) is awaiting final passage in the Senate.

Legislators continue their efforts to save healthcare dollars with adjustments in pharmacy regulations. The House signed off Thursday on a proposal to require **electronically transmitted prescriptions** to indicate if generic

drugs may be dispensed. HB69, sponsored by Rep. Arnold Mooney (R—Birmingham), now goes on to the Senate for consideration. A similar proposal – SB241 sponsored by Sen. Larry Stutts (R—Tuscumbia) – has made some progress, and it is currently awaiting a floor vote in the upper chamber. Two other related measures have not advanced. There was no movement this week on proposals to permit pharmacists to substitute **interchangeable biological products**.

ANOTHER ACTIVE WEEK FOR CHANGES TO THE ALCOHOLIC BEVERAGE MARKET

The trend toward a wider variety of alcoholic beverage options for Alabama consumers continues unabated. Legalization of **infused or flavored alcoholic beverages** for on-premises consumption is nearing the finish line. After this week's committee action, HB46 by Rep. Chris England (D—Tuscaloosa) only needs a favorable vote on the Senate floor to send it to the governor. Proposed authorization for **wine festivals** was amended again this week in a House Committee. If SB269 by Sen. Andrew Jones (R—Centre) passes on House floor, it will have to go back to the Senate for concurrence. Another attempt at allowing the **direct shipment of wine** to consumers made progress this week. The House Commerce and Small Business Committee approved a substitute to HB 350 by Rep. Terri Collins (R—Decatur). There was no action this week on a similar proposal, SB271 sponsored by Sen. Andrew Jones (R—Centre). In addition, bills permitting the **home delivery of alcoholic beverages** have been introduced in both chambers. SB368, newly filed by Sen. Shay Shelnett (R—Trussville) and its House twin are both at the legislative starting line. Despite earlier indications of friction, a tweak to **entertainment district law** garnered committee approval in the House without alteration. HB474, sponsored by Rep. Neil Rafferty (D—Birmingham), is now in position for a floor vote in its house of origin. A Senate companion, which did not advance this week, is in a parallel position. Breweries, wineries and distilleries would be able to legally sell **alcoholic beverages from certain other manufacturers in their tasting rooms** pursuant to another bill introduced this week. HB542 is sponsored by Rep. Becky Nordgren (R—Gadsden).

There was also movement this week that was more specific to the financial side of the alcoholic beverage market. Identical bills to regulate the **contractual relationship between beer suppliers and wholesalers** have now been introduced in the both chambers with the filing of SB346 this week. It is sponsored by Sen. Cam Ward (R—Alabaster). No votes have been taken on either measure. Additionally, a House committee gave a favorable report to a bill that would shift the point of **taxation for breweries and brewpubs** this week. HB494 by Rep. Becky Nordgren (R—Gadsden) was approved without alteration.

K-12 EDUCATION POLICY UPDATES

Computer science courses would become part of the mandatory school curriculum with the passage of HB216 by Rep. David Faulkner (R—Birmingham). The revised bill cleared the House yesterday, putting it across the 50-yard line. Furthermore, an **increase to charter school funding** progressed as well with some changes. The committee-approved version of SB311 by Senate President Pro Tempore Del Marsh (R—Anniston) is described in this fiscal note. In the meantime, there was no action this week on The **Alabama Literacy Act**, a revision of the Alabama Reading Initiative. Changes are anticipated to HB388 by Rep. Terri Collins (R—Decatur).

OTHER ISSUES TO WATCH

- Economic development incentives would get a fairly-extensive update with HB540 introduced this week by Rep. Bill Poole (R—Tuscaloosa). Dubbed the **Alabama Incentives Modernization Act**, the bill would add new tools for the attraction and expansion of businesses in rural Alabama, as well as high-tech companies statewide.
- The “**Protect Small Business Act**” to regulate interactions between **franchisors and franchisees** has advanced in its original form, despite an intense public hearing the week before. The bill is HB352 by Rep. Connie Rowe (R—Jasper), and it is now ready for consideration by the full House. A closely related Senate bill – SB129 as amended from Sen. Chris Elliott (R—Fairhope) – saw no action this week.
- A **telephone solicitation** crackdown got its first House activity this week with a public hearing in the Technology and Research Committee, though no vote was taken on HB40, which was filed before the session began by Rep. Craig Lipscomb (R—Gadsden). Other proposals on this subject showed no activity this week. Of the half dozen bills seeking to address this issue, the most forward progress has been made by SB7 by Sen. Tim Melson (R—Florence). As revised, it is currently awaiting consideration by the full Senate.
- Funding for **inland port and intermodal facility enhancements** got some floor time in the Senate on Thursday but was carried over while discussions continue about the most appropriate funding source. The bill in question is SB268 by Sen. Arthur Orr (R—Decatur), which did pick up a floor amendment, and it would draw \$10 million from fuel taxes in the Rebuild Alabama Act. The grant program was part of Gov. Kay Ivey’s budget recommendation at a pricetag of \$5 million to the General Fund budget. There appears to be a strong effort to address the issue in the budget.
- HB419 by Rep. Kyle South (R—Fayette), the **Financial Institution Excise Tax Reform Act of 2019**, is slated for consideration by the full House on Tuesday. The bill codifies certain FIET procedures, imposes estimated FIET payments (effectively changing the post-payment system under current law to a pre-payment model), and provides for an alternative

distribution formula for counties and municipalities. The bill was amended in committee to address a potential issue for tax-exempt credit unions that report no federal taxable income.

- HB430 by Rep. Steve Clouse (R—Ozark), to require keystroke logging software for **certain government contractors** and state employees, was the subject of a public hearing in the House Technology and Research Committee this week. The committee did not vote on the bill.
- HB275 by Rep. 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 bill was adopted in committee. **Seat belts** would be required for all occupants of a moving vehicle – not just those in the front seat as under current state law – with HB230 by Rep. Chris Sells (R—Greenville). The bill advanced through a House committee this week, putting it in position for consideration by the full House. There was no movement on two similar bills.
- A **reduction in unemployment compensation** is only one step away from the governor’s desk after this week’s action. SB193 by Sen. Arthur Orr (R—Decatur) secured a favorable report from a House committee this week without amendment, putting it in position for final passage on the House floor in the near future. A separate but closely related proposal – HB364 as substituted – has not moved in several weeks. It is sponsored by Rep. Danny Garrett (R—Trussville).
- A proposed **tax credit for qualified research expenses** charged ahead in a House committee this week with one amendment. HB424 is carried by Rep. Joe Lovvorn (R—Auburn). A closely related proposal from the Senate – SB 78 by Sen. Arthur Orr (R—Decatur) – is still pending in a House committee.
- A bill to lower the age of eligibility for certain **commercial drivers’ licenses** is making good time this session. HB479 by Rep. Dexter Grimsley (D—Newville) passed the House in a landslide before being assigned to a Senate committee, which has previously given a favorable report to a companion version of the proposal.

The House and Senate will reconvene on Tuesday, May 7. There are 15 meeting days remaining in the 2019 Regular Session.