

FINE GEDDIE

GOVERNMENT RELATIONS

THE FINE GEDDIE REPORT 2021 REGULAR SESSION · WEEK ELEVEN APRIL 23, 2021

EDUCATION BUDGET ADVANCES IN THE HOUSE, SENATE FOCUSES ON ELECTION REFORMS

As the regular session nears the home stretch, the House Ways and Means Committee on Education approved a substitute version of the **Education Trust Fund Budget** Thursday. The committee shaved about \$3 million off the Senate-passed version, for a grand total of \$7.670 billion for the 2021-2022 fiscal year. Representing a \$452 million increase over the current year, it would be the largest education budget in Alabama history. It provides a 2% raise for education employees from K-12 to two-year colleges and invests in a new incentive pay program to bolster math and science in K-12. The education budget is scheduled for floor consideration in the House on Tuesday.

The state's other main operating budget, the **\$2.474 billion General Fund**, is pending in the Senate Finance and Taxation Committee on the General Fund.

Meanwhile, the Senate devoted Thursday to election legislation, and a proposed **curbside voting ban** foundered. HB285 by Rep. Wes Allen (R—Troy) was brought up for consideration twice and carried over both times. In other action:

- After Alabamians cast record numbers of **absentee ballots** in 2020, HB538 by Rep. Alan Baker (R—Brewton) would revise the timeline for requesting ballots and other rules related to absentee ballots. It passed the Senate Thursday with a floor amendment to extend the deadline for requesting a ballot to seven days prior to an election and must return to the House for concurrence.
- In a move to combat **election fraud**, the Senate passed a bill Thursday, with a committee amendment and a floor amendment, prohibiting an individual from voting multiple times or locations in a single election. HB167 by Rep. Chris Blackshear (R—Phenix City) now needs the House to concur with Senate changes.
- The secretary of state would be authorized to conduct a **one-time, post-election audit of the vote count** under HB116 by Rep. David Standridge (R—Hayden). It passed the Senate on Thursday with a committee amendment and a floor amendment. It must return to the House for concurrence.
- **Campaign finance filings** for state and municipal elections would all be electronic and would be consolidated in the secretary of state's office under HB154 by Rep. Andy Whitt (R—Harvest), which received a floor amendment Thursday before passing the Senate. The House must concur with the Senate-passed version.
- **Last-minute changes to election law** would be prohibited under HB388 by Rep.

Jim Carns (R—Birmingham). Subject to a statewide referendum, Carns’ bill, which passed the Senate on Thursday, would prevent changes to state election law within six months of a general election. It is pending with the governor.

- **Precinct election officials** could serve in any precinct in the county where they are registered to vote under HB312 by Rep. David Wheeler (R—Vestavia Hills), which passed the Senate with a committee amendment. It is pending House concurrence.

On another front, the World Games are set to bring thousands of athletes to Birmingham next year, but there are concerns that legislation regulating transgender athletes in prep sports could jeopardize the event. **Transgender athletes** would be prohibited from competing in public school sports unless the event specifically includes both genders under HB391 by Rep. Scott Stadthagen (R—Hartselle), which is pending with the governor.

In other high-profile issues, **medical marijuana** could receive floor consideration in the House next week. Discussions continue as House members familiarize themselves with the bill to this point. SB46 is by Sen. Tim Melson (R—Florence). Similarly, negotiations continue on a **lottery and casino proposal** pending with the House Economic Development and Tourism Committee. SB319 by Sen. Jim McClendon (R—Springville), which would call a statewide referendum to decide the issue, is expected to reach the House floor this session.

OTHER ISSUES TO WATCH

HEALTHCARE

- This week, the House Health Committee carried over SB97 by Sen. Tom Whatley (R—Auburn) to limit the **governor’s authority during a public health emergency** and expand the Legislature’s role.
- A **community paramedicine** program to allow paramedics to provide expanded services would be authorized under HB141 by Rep. Chris Sells (R—Greenville), which passed the Senate on Tuesday.
- Legislation to regulate the **pharmacy benefit management (PBM)** industry advanced this week without alteration. SB227 by Sen. Tom Butler (R—Madison) received a favorable report from the House Health Committee. The bill places PBMs under greater regulatory scrutiny, requires greater transparency and guarantees independent pharmacies access to the market while imposing some restrictions on PBMs. Some self-funded plans remain concerned and there is discussion of an amendment to clarify that self-funded plans and their PBMs are exempt.
- The Senate Healthcare Committee conducted a public hearing on SB369 by Sen. Bobby Singleton (D—Greensboro) affecting **hospitals operated by health care authorities**. It would give doctors with hospital privileges the right to approve contracts for group physician services and decisions to close existing hospital departments. The bill was held in committee.

- After conducting a public hearing last week, the House Health Committee gave a favorable report as amended to a proposed expansion of the **scope of practice for podiatrists**, HB291 by Rep. Scott Stadthagen (R—Hartselle). The companion – SB371 by Sen. Linda Coleman-Madison (D—Birmingham) – was the subject of a public hearing in the Senate Healthcare Committee this week.
- The House Health Committee issued a favorable report Wednesday to a bill to codify **civil liability protection for private mental health facilities** that step into the shoes of the state in providing care. SB289 is by Sen. Greg Albritton (R—Atmore).
- **Vaccine passports** would be prohibited under SB267 by Sen. Arthur Orr (R—Decatur), and the House Health Committee gave it a favorable report as substituted to address concerns of doctors, nursing homes, hospitals and universities.
- During the COVID-19 pandemic, **healthcare facilities would be required to allow one caregiver or visitor per patient** with HB521 by Rep. Debbie Wood (R—Valley), which passed the Senate with amendments (1, 2, 3) on Tuesday. It is pending in the House and is expected to go to conference to work out differences between the House and Senate versions. There are concerns that Senate amendments jeopardize care, funding and expose facilities to liability.
- The Board of Nursing could establish standards for **student nurse apprenticeships** and certified medication assistants under SB179 by Sen. Linda Coleman-Madison (D—Birmingham), which the governor signed Thursday. It is now Act 2021-275.
- **Nurses in residential community health settings** would be authorized to **delegate certain tasks to unlicensed healthcare workers** in accordance with rules from the Alabama Board of Nursing under SB183 by Sen. Vivian Figures (D—Mobile), which passed the House Tuesday. It is pending with the governor.
- The **Alabama Board of Nursing** would gain access to the state’s **controlled substances database** for investigations or disciplinary activities under SB186 by Sen. Billy Beasley (D—Clayton), which is on the House’s working agenda for Tuesday.
- Next week, the Senate Judiciary Committee is scheduled to take up the proposed **Medicaid False Claims Act**. SB241 is by Sen. Jim McClendon (R—Springville).

ALCOHOLIC BEVERAGE MARKETPLACE

- **Small farm wineries** could sell directly to consumers and sell and deliver to licensed retailers with passage of SB294 by Sen. Andrew Jones (R—Centre). The bill as substituted in committee was on the House’s working agenda Thursday but members adjourned before considering it.

TRANSPORTATION

- HB460 by Rep. Wes Allen (R—Troy) to **loosen regulations on heavy trucks** used for agriculture or forestry passed the Senate Tuesday with a committee amendment. It is now pending House concurrence.
- Contractors on public road and bridge projects could gain **exemption from sales and use tax** under HB340 by Rep. David Faulkner (R—Birmingham). The bill received

a favorable report Wednesday from the Senate Finance and Taxation Committee on Education.

- The definition of **construction zone violations** would be expanded and a \$250 minimum fine set under SB4 by Sen. Gerald Allen (R—Tuscaloosa), which was on the House’s working agenda Thursday but the body adjourned before reaching it.
- A streamlined sales and use **tax exemption for airport authorities** would be created by SB11 by Sen. Sam Givhan (R—Huntsville), and the exemption could be extended to contractors working for the authorities in some situations. The bill received Senate concurrence this week and is pending with the governor.
- The prohibition of **certain indemnity clauses in public works contracts** and subcontracts for roads and bridges has been signed into law. SB220 by Sen. Clay Scofield (R—Guntersville) is now Act 2021-244.
- SB332 by Sen. Kirk Hatcher (D—Montgomery) to update state safety regulations related to entry-level training for **commercial driver licenses** and bring them into compliance with federal law is on the House’s working agenda for Tuesday.

EDUCATION

- Lawmakers voted to form a **Joint Legislative Interim Study Commission on Community College Tenure Policies**, and SJR79 by Sen Dan Roberts (R—Birmingham) was signed by the governor this week.

PROCUREMENT

- HB162 by Rep. Kyle South (R—Fayette) provides a **lease tax exemption** on the gross proceeds of many motor vehicle lease transactions with government agencies and removes a prohibition against passing lease taxes on to state or local governments. It was signed into law this week as Act 2021-221.
- SB77 by Sen. Arthur Orr (R—Decatur) to **reform the state procurement process** is pending with the governor.

BANKING AND INSURANCE

- Some data and information that insurers file with the state will be considered **trade secrets and be shielded from public release** under HB132 by Rep. Chip Brown (R—Mobile), which was signed this week. It is now Act 2021-237.
- Alabama’s credit for **reinsurance** regulations will substantially mirror a model law from the National Association of Insurance Commissioners under HB32 by Rep. Kerry Rich (R—Guntersville). Now Act 2021-235, it was signed into law Tuesday.
- SB279 by Sen. Dan Roberts (R—Birmingham) would enact provisions relating to the discontinuance of **LIBOR, the London Interbank Offered Rate**, a benchmark for short-term interest rates used in certain financial contracts. This week, it passed the House, received Senate concurrence and was forwarded to the governor for her signature.
- The House is expected to consider legislation to provide a process for a **trustee seeking to be released from duties to a trust** next week. SB282 is by Sen. Shay Shelnett (R—Trussville).

RETIREMENT SYSTEMS OF ALABAMA

- The **State Employees' Retirement System Board of Control** would be expanded with an additional local government representative and an additional at-large representative to better reflect the participating membership under SB79 by Sen. Garlan Gudger (R—Cullman). The bill is pending Senate concurrence.

ECONOMIC DEVELOPMENT & PORT-RELATED ISSUES

- This week the House passed a sweeping, multi-pronged proposal from Sen. Del Marsh (R—Anniston) to **expand broadband access** in Alabama. SB215 creates a new state agency to oversee expansion and award grants, an advisory board to guide the effort, a research alliance of higher education and a finance corporation, authorized to issue up to \$250 million in bonds annually. The floor substitute was amended twice and must go back to the Senate for concurrence.
- The proposed **Alabama Rural, Agribusiness and Opportunity Zone Jobs Act – HB473** by Rep. Danny Garrett (R—Trussville) – would establish a \$50 million pool of capital that must be invested in small businesses in rural and economically impoverished (opportunity zones) communities. It would also set targets for investing in minority-owned businesses. Federal SSBCI grants from the American Rescue Plan would be used to match private sector investments on a 1:1 ratio to raise capital for the fund, which would in turn be invested by the fund managers into small businesses with growth potential. Access to capital has been found to be one of the primary barriers faced by entrepreneurs in rural and impoverished areas and for minority businesses. It passed the House on Tuesday and received a favorable report from the Senate Finance and Taxation General Fund Committee Wednesday.
- The **Alabama Innovation Corporation**, a public corporation responsible for promoting entrepreneurship and innovation, would be created by HB540 by Rep. Bill Poole (R—Tuscaloosa), which passed the House as amended this week. The House also passed a related bill to allow the corporation to make **matching grants of up to \$250,000** to entities that have received a federal Small Business Innovation Research grant or a federal Small Business Technology Transfer Research grant. HB609 is by Rep. Jeremy Gray (D—Opelika).

EMPLOYMENT LAW

- More people would be eligible for **criminal record expungement** with SB117 by Sen. Linda Coleman-Madison (D—Birmingham). The bill is pending with the governor.
- The **permitting process for concealed carry of a handgun** is being standardized statewide pursuant to SB308 by Sen. Randy Price (R—Opelika). It provides for lifetime permits and was signed into law as Act 2021-246 on Tuesday.
- The Alabama Department of Labor would be required to adopt policies to recover **improper overpayments of unemployment benefits** under SB373 by Sen. Arthur Orr (R—Decatur), which received a favorable report Thursday from the House Fiscal Responsibility Committee.
- Two bills creating **state causes of action** appear on the House Judiciary

Committee's agenda next week. HB87 by Rep. Rolanda Hollis (D—Birmingham) applies to several categories of discrimination, and HB352 by Rep. Neil Rafferty (D—Birmingham) is specific to discrimination against a pregnant woman.

REMOTE NOTARIZATION

- **Remote notarizations** would be permissible in some situations under SB275 by Sen. Sam Givhan (R—Huntsville), which would also retroactively ratify remote notarizations done under emergency conditions. The bill, which passed the House and received Senate concurrence on Tuesday, is pending with the governor.

ENERGY

- A bill to prevent governmental entities from blocking use of certain **energy sources** passed the Senate Tuesday. HB446 by Rep. David Faulkner (R—Birmingham) received a committee amendment specifying that it does not change service territories for electric suppliers and a floor amendment in the Senate, so the bill is pending House concurrence.

NICOTINE PRODUCTS

- The Senate Judiciary Committee gave a favorable report to HB273 by Rep. Barbara Drummond (D—Mobile) to raise to 21 the legal age to **purchase tobacco and nicotine products, restrict marketing practices and require registration of alternative nicotine products – including vaping products.**

GOVERNMENT TRANSPARENCY

- A bill to require previously exempt licensing boards, agencies, commissions and athletic organizations to **publish their expenditures online** passed the House this week. HB124 by Rep. Chris Pringle (R—Mobile) had previously been narrowed to self-sustaining licensing boards and commissions, a change which removed impact on certain private associations and public authorities.

GENERAL BUSINESS LAW

- SB176 by Sen. Rodger Smitherman (D—Birmingham) would provide for the creation and enforcement of **non-disparagement clauses** in contracts. It is on the Senate Judiciary Committee's agenda next week.

*The Alabama Legislature will reconvene on Tuesday, April 27.
Five legislative days remain in the regular session.*