

FINE GEDDIE

GOVERNMENT RELATIONS

THE FINE GEDDIE REPORT 2021 REGULAR SESSION · WEEK TWELVE APRIL 30, 2021

STATE BUDGETS DOMINATE AS SESSION SPEEDS TOWARD CONCLUSION

The state's two major operating budgets made major progress this week, starting with the House's passage Tuesday of a \$7.67 billion **Education Trust Fund budget** for the upcoming year, representing a \$455 million increase above the current year. 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 Senate concurred with House changes Thursday, sending the budget to the governor.

Meanwhile, the **General Fund budget** passed the Senate Finance and Taxation Committee on the General Fund Tuesday and then passed the Senate Thursday. The upper chamber added almost \$7 million in spending to bring total appropriations to \$2.48 billion, up from \$2.39 billion for the current year. The 2% pay raise for state employees recommended by Gov. Kay Ivey is intact, but the House declined to concur with Senate changes and appointed a conference committee to resolve the differences. The appointment of Senate conferees is pending.

Just three legislative days remain. They are currently planning to meet for two days next week and then return on May 17, the final possible meeting day, for a potential veto override and to conclude the session. One significant issue that remains unresolved is **medical marijuana**, and **SB46** by Sen. Tim Melson (R—Florence) is expected to get a floor vote in the House this session. Likewise, a **lottery and casino proposal** is unresolved but expected to reach the House floor this session. **SB319** by Sen. Jim McClendon (R—Springville) would call a statewide referendum to decide the issue.

OTHER ISSUES TO WATCH

ELECTION REFORM

- After 2020's flood of absentee ballots, **HB538** by Rep. Alan Baker (R—Brewton) would revise the timeline for requesting ballots and other **rules related to absentee ballots**. The House concurred with Senate changes this week, sending the bill to the governor.
- **HB167** by Rep. Chris Blackshear (R—Phenix City), which passed the Senate with a **committee amendment** and a **floor amendment**, **prohibits an individual from voting multiple times or locations** in a single election. It went to conference committee this week, with Reps. Blackshear, Connie Rowe (R—Jasper) and Chris

England (D—Tuscaloosa) appointed, along with Sens. Clay Scofield (R—Guntersville), Sam Givhan (R—Huntsville) and Bobby Singleton (D—Greensboro).

- 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 went to conference committee this week, and the conference report passed the House and is pending in the Senate.
- **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). It was signed Thursday as Act 2021-314.
- **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), and this week the House concurred with Senate changes. The bill is pending with the governor.

HEALTHCARE

- SB97 by Sen. Tom Whatley (R—Auburn) to limit the **governor's authority during a public health emergency** and expand the Legislature's role received a favorable report as substituted by the House Health Committee.
- Alabama's existing **vaccine registry procedures** would be updated pursuant to HB184 by Rep. Paul Lee (R—Dothan). The Senate Healthcare Committee rejected the proposal this week by a margin of two votes.
- A **community paramedicine program** to allow paramedics to provide expanded services would be authorized under HB141 by Rep. Chris Sells (R—Greenville), which was signed into law Thursday as Act 2021-303.
- Legislation to regulate the **pharmacy benefit management (PBM)** industry – SB227 by Sen. Tom Butler (R—Madison) – passed the House Thursday with a floor amendment related to self-funded plans. 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. The Senate concurred with House changes, and the bill is pending with the governor.
- The House passed a bill Thursday 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) is pending with the governor.
- A conference committee was appointed this week to resolve differences on HB521 by Rep. Debbie Wood (R—Valley) to require **healthcare facilities to allow one caregiver or visitor per patient** during a healthcare emergency such as the COVID-19 pandemic. There were concerns that Senate amendments exposed facilities to liability and jeopardized care and funding. The conference substitute provides limited immunity for incidents related to such visitation.
- **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). The

governor signed Act 2021-317 on Thursday.

- 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 passed the House on Tuesday. It is pending with the governor.
- This week, the Senate Judiciary Committee rejected 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 passed the House Thursday as substituted and amended. It is pending Senate concurrence.
- HB437 by Rep. Terri Collins (R—Decatur) to authorize **direct shipment of wine to consumers** passed the Senate Thursday. The committee substitute was adopted and a floor amendment added. Then the House concurred with all changes, and the bill is pending with the governor.

TRANSPORTATION

- HB460 by Rep. Wes Allen (R—Troy) to **loosen regulations on heavy trucks** used for agriculture or forestry received House concurrence this week. It is pending with the governor.
- 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 passed the Senate Thursday and is pending with the governor.
- The definition of **construction zone violations** would be expanded and a \$250 minimum fine set under SB4 by Sen. Gerald Allen (R—Tuscaloosa), which passed the House Thursday. It is pending with the governor.
- 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. Gov. Kay Ivey signed Act 2021-298 this week.
- 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 passed the House on Tuesday. It is pending with the governor.

PROCUREMENT

- SB77 by Sen. Arthur Orr (R—Decatur) to **reform the state procurement process** was signed by the governor Tuesday. It is Act 2021-296.

BANKING AND INSURANCE

- The commissioner of insurance would be authorized to establish a **state health insurance exchange** for the purchase and sale of qualified health insurance plans in the individual market under HB612 by Rep. Kerry Rich (R—Guntersville). The

House Insurance Committee conducted a public hearing on Wednesday but did not advance.

- Adjustments to **small company alternative valuation** by the Department of Insurance would be accomplished with passage of SB136 by Sen. Shay Shelnett (R—Trussville). The bill, which passed the House Thursday, is pending with the governor.
- Gov. Kay Ivey has signed SB279 by Sen. Dan Roberts (R—Birmingham) relating to the discontinuance of **LIBOR, the London Interbank Offered Rate**, a benchmark for short-term interest rates used in certain financial contracts. It is Act 2021-323.
- The House passed legislation on Tuesday to provide a process for a **trustee seeking to be released from duties to a trust**. SB282 by Sen. Shay Shelnett (R—Trussville) is pending with the governor.

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 Senate voted concurrence on Tuesday, and the bill is pending with the governor.

ECONOMIC DEVELOPMENT & PORT-RELATED ISSUES

- The Senate did not agree with House changes to SB215 by Sen. Del Marsh (R—Anniston) to **expand broadband access** in Alabama. The bill 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. SB215 is now pending in conference committee. The conferees are Marsh, Sen. Bobby Singleton (D—Greensboro), Sen. Clay Scofield (R—Guntersville), along with Reps. Danny Garrett (R—Trussville), Randall Shedd (R—Cullman) and Rod Scott (D—Fairfield).
- The Senate Fiscal Responsibility and Economic Development Committee gave favorable reports to a pair of related bills this week. The **Alabama Innovation Corporation**, a public corporation responsible for promoting entrepreneurship and innovation, would be created by HB540 by Rep. Bill Poole (R—Tuscaloosa). HB609 by Rep. Jeremy Gray (D—Opelika) would 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.
- The proposed **Alabama Rural, Agribusiness and Opportunity Zone Jobs Act** – HB473 by Rep. Danny Garrett (R—Trussville) – is in line for consideration on the Senate floor next week. The bill 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.

EMPLOYMENT LAW

- More people would be eligible for **criminal record expungement** with SB117 by Sen. Linda Coleman-Madison (D—Birmingham), which the governor signed this week, making it Act 2021-286.
- 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 passed the House Thursday. It is pending with the governor.
- Two bills creating **state causes of action** appeared on the House Judiciary Committee’s agenda this week but did not advance. 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 – now Act 2021-319 – was signed Thursday.

ENERGY

- The House concurred Tuesday on a bill to prevent governmental entities from blocking use of certain **energy sources**. HB446 by Rep. David Faulkner (R—Birmingham) is pending with the governor.

GENERAL BUSINESS LAW

- SB176 by Sen. Rodger Smitherman (D—Birmingham) would provide for the creation and enforcement of **non-disparagement clauses** in contracts. This week, the Senate Judiciary Committee gave it a favorable report as substituted.

JUDICIAL COMPENSATION

- This week, the House passed a substitute version of SB292 by Sen. Greg Albritton (R—Atmore), which would establish a **uniform pay plan for judges** and eliminate local salary supplements and expense allowances. The House rejected an attempt to apply the pay plan to district attorneys, and now the bill is pending concurrence in the Senate.

ANKLE MONITORING

- All paroled inmates would be subject to **electronic monitoring** under HB111 by Rep. Jim Hill (R—Moody), which was considered on the Senate floor Thursday before being carried over.

EDUCATION

- Management of some **public education institution construction** would shift away from the Department of Finance’s Division of Construction Management under HB220 by Rep. Nathaniel Ledbetter (R—Rainsville). It passed the Senate Thursday as substituted in committee and amended on the floor regarding state parks. The House concurred, and the bill is pending with the governor.
- **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 the governor signed into law late last week. It is Act 2021-285.

2022 ELECTIONS

- **U.S. Census** data released this week contained a surprise for Alabama. Many expected the state to lose a seat in Congress, forcing a difficult redistricting process to go from seven districts to six, but population growth was sufficient to retain all seven districts for the next decade.
- A second Republican has announced his candidacy for the **5th Congressional District** seat being vacated by Rep. Mo Brooks. Casey Wardynski served as assistant secretary of the Army for manpower and reserve affairs in the Trump administration, and he will face Madison County Commission Chairman Dale Strong in the primary. Brooks is running for the U.S. Senate to succeed the retiring Sen. Richard Shelby.

*The Alabama Legislature will reconvene on Tuesday, May 4.
Three legislative days remain in the regular session.*