

# FINE GEDDIE

GOVERNMENT RELATIONS

## THE FINE GEDDIE REPORT 2021 REGULAR SESSION · WEEK ONE FEBRUARY 5, 2021

### *PRODUCTIVE WEEK DESPITE UNUSUAL CIRCUMSTANCES*

The Alabama Legislature got down to business immediately in the 2021 session's first week; both chambers moved major legislation, seemingly unhindered by social distancing and other virus-related precautions. Gov. Kay Ivey matched their pace, delivering her annual State of the State address virtually on Tuesday and submitting her budget recommendations the next day.

Despite the economic upheaval of the past year, Alabama's financial position is solid. The governor recommended \$7.66 billion in appropriations from the **Education Trust Fund Budget** for 2021-2022, representing a 6.1% increase over the current spending plan while staying within conservative revenue projections. Alabama's **General Fund Budget** supports most non-education functions of state government, and there Ivey recommended \$2.46 billion in spending for the fiscal year beginning October 1. That figure is 1.3% smaller than the current appropriations, but the difference is more than offset by a more generous federal match on two key healthcare programs. Highlights of her budget recommendations include:

- 2% pay raises for education personnel (pre-K through two-year college) and state employees;
- Targeted spending increases for pre-K, career tech, STEM, literacy, high needs and special education, along with prison healthcare and the Department of Mental Health

### *SHARED PRIORITIES: PROGRESS ON ECONOMIC DEVELOPMENT INCENTIVES, COVID-19 LIABILITY PROTECTION AND TAX RELIEF*

Well in advance of the opening gavel, legislative leaders had staked out three key priorities for the first two weeks of the session, and lawmakers made substantial headway on all three this week. In her speech, the governor listed the same three top priorities, vowing to sign them into law as soon as they reach her desk.

## ECONOMIC DEVELOPMENT INCENTIVES

The House of Representatives worked efficiently this week to quickly renew two of the state's major industrial recruitment tools and expand application of another incentive to auto manufacturers that ship through the Alabama State Port Authority. The expired **Alabama Jobs Act** had provided tax credits and rebates to new industries, and the expired **Growing Alabama Act** had provided tax credits for donations to economic development organizations. HB192 by Rep. Bill Poole (R—Tuscaloosa) was substituted in the House Ways and Means Committee on Education and then approved, as substituted, by the full House. The bill is set for consideration Tuesday in the Senate Finance and Taxation Committee on Education. The Senate sponsor is President Pro Tempore Greg Reed (R—Jasper).

## COVID-19 LIABILITY PROTECTION

With SB30, Sen. Arthur Orr (R—Decatur) is renewing his push from 2020 to provide broad civil immunity to businesses, healthcare providers, government entities and others against claims of coronavirus exposure, with extra protection for healthcare providers. The bill received a favorable report from the Senate Judiciary Committee on Wednesday before passing the Senate on Thursday. It is scheduled for consideration in the House Judiciary Committee next week.

## TAX RELIEF & REFORM

The House of Representatives voted unanimously in favor of HB170 by Rep. Danny Garrett (R—Trussville) on Thursday, which creates a state income tax exemption for federal **Coronavirus Relief Fund** payments and small business loans forgiven under the **Paycheck Protection Program** in 2020 and 2021. Furthermore, the bill also addresses recommendations of the Legislative Joint Task Force on The Tax Cuts and Jobs Act of 2017, including:

- allowing pass-through entities to file at the entity level to avoid the SALT limitation,
- decoupling state income tax from the new IRC Section 118 provisions to relieve local economic development incentives from tax,
- decoupling from federal GILTI provisions,
- relieving state taxpayers from the Section 163(j) interest expense limitations,
- changing Alabama's apportionment methodology to a single sales factor,
- eliminating the throwback provision to encourage investment in Alabama.

HB170 is scheduled for consideration Tuesday by the Senate Finance and Taxation Committee on Education, the same committee that approved the companion bill by Sen. Dan Roberts (R—Birmingham) earlier this week.

## ALABAMA, AUBURN TRUSTEES CONFIRMED

On Wednesday, the Alabama Senate confirmed several appointees to governing boards in higher education. Robert C. Brock, James W. Wilson and Ronald W. Gray were confirmed to the University of Alabama Board of Trustees. Jimmy Sanford, Wayne Smith and Michael DeMaioribus were confirmed to the Auburn University Board of Trustees.

### OTHER ISSUES TO WATCH

#### ALCOHOLIC BEVERAGE MARKETPLACE

- **Home delivery of beer, wine and spirits** would be legalized under [SB126](#) by Sen. Jabo Waggoner (R—Vestavia Hills), and the bill received a favorable report from the Senate Judiciary Committee this week. The House companion is sponsored by Rep. Gil Isbell (R—Gadsden).

#### MEDICAL MARIJUANA

- Alabama would institute a comprehensive **medical marijuana** program under [SB46](#) by Sen. Tim Melson (R—Florence), which received a favorable report from the Senate Judiciary Committee this week. It is expected to be considered on the Senate floor sometime next week.

#### PROCUREMENT

- [SB77](#) by Sen. Orr would substantially reform **state procurement**, and the bill received a favorable report with one [amendment](#) from the Senate Finance and Taxation Committee on Education. The companion is [HB171](#) by Rep. Danny Garrett (R—Trussville).
- [HB162](#) by Rep. Kyle South (R—Fayette) provides a **lease tax exemption** on the gross proceeds of motor vehicle lease transactions with a duration of at least 180 days with the federal government, or any state, county, or municipal entity within the state, including a public-school board or individual public school. The bill received a favorable report this week from the House Ways and Means Committee on the General Fund.
- [HB187](#) by Rep. Terri Collins (R—Decatur) exempts from competitive bid laws certain **leases and lease/purchases of goods and services** by city and county boards of education or other state and local governmental entities made through national or regional cooperative purchasing agreements. It received a favorable report from the House State Government Committee with one [amendment](#). The Senate version — [SB15](#) by Sen. Andrew Jones (R—Centre) — received a favorable report with an [amendment](#) from the Senate Governmental Affairs Committee.

## TRANSPORTATION

- HB245 by Rep. Lynn Greer (R—Rogersville) would expand the definition of **construction zone violations** and set minimum fine of \$250. The companion is sponsored by Sen. Gerald Allen (R—Tuscaloosa).
- Under HB234 by Rep. Steve McMillan (R—Bay Minette), **public works contracts and subcontracts for roads and bridges** would be prohibited from requiring a party to indemnify another entity for damages caused by the conduct of the other party.

## PUBLIC HEALTH

- Sen. Tom Whatley (R—Auburn) has introduced SB97 to alter the **powers of the state health officer and governor**. The measure received a favorable report from the Senate Judiciary Committee this week. Rep. Mike Holmes (R—Wetumpka) has the companion.
- HB278 from Rep. Ritchie Whorton (R—Owens Cross Roads) would create an **immunization exemption** based on religious beliefs, personal beliefs or medical condition and would prohibit discrimination based on immunization status. It would also strip cities of existing authority to require vaccinations.

## INSURANCE

- HB32 by Rep. Kerry Rich (R—Guntersville) would make Alabama's law regulating reinsurers and the credit an insurer may apply against its otherwise required reserves substantially similar to the current version of the **Credit for Reinsurance Model Law** developed by the National Association of Insurance Commissioners. It received a favorable report from the House State Government Committee this week. Sen. Shay Shelnett (R—Trussville) is carrying the companion, which is scheduled for consideration in the Senate Banking and Insurance Committee next week.

## TRANSPARENCY IN STATE GOVERNMENT

- For the last two years, the Alabama Press Association has supported an extensive and controversial rewrite of the state's **open records** law, and this year Sen. Arthur Orr (R—Decatur) is taking the lead with SB165.
- The **Examiners of Public Accounts would be required to audit** the Alabama High School Athletic Association under HB4 by Rep. Wes Allen (R—Troy).
- Rep. Kerry Rich (R—Guntersville) is sponsoring HB248 to provide for the **broadcast of public K-12 sporting events**. The companion is by Senate Majority Leader Clay Scofield (R—Guntersville).
- Rep. Chris Pringle (R—Mobile) is sponsoring HB124 to require previously exempt licensing boards, agencies, commissions and athletic organizations to **publish their expenditures online**.
- The **Open Meetings Act's** definitions of meeting and deliberation would be vastly expanded by HB203 by Rep. Tim Wadsworth (R—Arley).

## SUPPLEMENTAL APPROPRIATIONS

- HB231 by Rep. Steve Clouse (R—Ozark) makes a supplemental appropriation of federal funds from the Alabama Emergency Rental Assistance Fund to the Department of Finance in the estimated amount of \$263,236,067 for the fiscal year ending September 30, 2021. These funds will be delegated by memorandum of agreement to the **Alabama Housing Finance Authority** to administer the Emergency Rental Assistance Program. The bill received a favorable report from the House Ways and Means Committee on the General Fund this week and then passed the full House with a unanimous vote.

## ECONOMIC DEVELOPMENT & PORT-RELATED ISSUES

- SB131 by Sen. Andrew Jones (R—Centre) would only apply to any animal byproduct processing facility or **rendering plant in Etowah County**. If enacted, the business owner would be required to compensate neighbors for loss of property value, and local governments could charge the business a special tipping fee at landfills. In addition, the bill sets up a process to remove an abandoned business. The measure was assigned to the Senate Local Legislation Committee.
- Rep. Craig Lipscomb (R—Gadsden) introduced HB316 to require any municipality, industrial development board or property owner **developing an animal processing facility** inside city limits and in close proximity to a contiguous neighboring municipality to give notices to the contiguous municipality.
- HB179 by Rep. Adline Clarke (D—Mobile) would increase by two the number of executive level employees that the director of the **Alabama State Port Authority** may appoint and shield some of the authority's sensitive information from public disclosure. Sen. Vivian Figures (D—Mobile) filed the companion.
- HB219 by Rep. Kyle South (R—Fayette) received a favorable report with amendment from the House Ways and Means Committee on the General Fund. The bill extends the \$0.135/ton **coal severance tax** and adjusts the distribution formula.

*The House and Senate will reconvene on Tuesday, February 9, for the session's second week. Beginning with week three, the Legislature is expected to take a COVID-19 break for at least one week before resuming the remainder of the session.*