

FINE GEDDIE

GOVERNMENT RELATIONS

THE FINE GEDDIE REPORT 2023 REGULAR SESSION · WEEK EIGHT MAY 5, 2023

\$11.6 BILLION OF EDUCATION SPENDING CLEARS SENATE, INCLUDING \$8.8 BILLION FY2024 BUDGET

The biggest news of the week comes from the upper chamber of the Alabama Legislature, where senators passed an **\$8.8 billion FY2024 Education Trust Fund budget** and a \$2.8 billion supplemental appropriation for the current fiscal year. The Senate also passed a **\$2.8 billion supplemental appropriation** due to the Education Trust Fund's unprecedented surplus, equaling about a third of the total education budget proposed for next year. Lawmakers diverged significantly from Gov. Kay Ivey's recommendations for the measure, zeroing line items for the Alabama State Port Authority, airport improvements in Mobile, the Maxwell Air Force Base Gateway project, the Alabama School of Healthcare Sciences and others.

As part of the budget package, Senators also slashed the governor's proposed **tax rebate**, which would have sent \$400 checks to individual income taxpayers and \$800 to joint filers. In Senate-passed form this week, **SB86** would return \$105 to individual taxpayers and \$210 to joint filers in a one-time, refundable tax credit.

The Education Trust Fund is the larger of Alabama's two major operating budgets. For context, last week the House passed a \$3.0 billion **FY2024 General Fund budget** and a **\$202 million supplemental appropriation** from the General Fund.

In other news, another big accomplishment was made this week on the civil liability front. **Contractors working on roads and bridges** would be protected from civil liability in certain situations according to SB159 by Sen. Clay Scofield (R—Guntersville), which was approved in **substitute** form by the Senate Judiciary Committee. The substitute represents an agreement reached after negotiations among city government, county government, contractors and plaintiffs' attorneys.

All in all, the second half of the session began in a productive fashion despite underlying tensions. Lawmakers are expected to moderate their pace slightly next week when they plan to go into formal session two days.

OVERVIEW OF THE WEEK

CANNABIS

- **Psychoactive cannabinoids from hemp** could not be sold to anyone younger than 21 under SB66 by Sen. Tim Melson (R—Florence), which passed the House Tuesday as substituted and twice amended (1, 2). On Wednesday, the Senate concurred with House changes, and the bill is now pending with the governor. Rep. Russell Bedsole (R—Alabaster) is sponsor of the House companion.

GENERAL BUSINESS

- SB261 by Sen. Dan Roberts (R—Birmingham) would **prohibit governmental entities from contracting with companies that engage in the economic boycott of businesses** in certain sectors and industries that fail to commit to certain environmental standards; that fail to commit to certain corporate governance criteria; or that fail to facilitate certain activities. The Senate Fiscal Responsibility and Economic Development Committee was scheduled to conduct a public hearing on the bill this week, but it was withdrawn from the agenda. The committee is expected to take it up next week.

TOBACCO

- **Smoking or vaping in a motor vehicle in the presence of a child** would be banned pursuant to HB3 by Rep. Rolanda Hollis (D—Birmingham), which has been signed into law, becoming Act 2023-93.
- HB319 by Rep. Barbara Drummond (D—Mobile) would **enhance enforcement of tobacco and vape laws** administered by the Alabama Alcoholic Beverage Control Board and increase penalties for violations. It would also set standards for manufacturers of e-liquids and alternative nicotine products under the oversight of the Alabama Department of Revenue. The House Judiciary Committee approved a substitute version of the bill Wednesday. A companion bill was introduced in the Senate by Sen. Garlan Gudger (R—Cullman) as SB271.

ECONOMIC DEVELOPMENT & PORT-RELATED ISSUES

- Alabama's incentives for the entertainment industry would be updated and expanded by HB429, which Rep. Jamie Kiel (R—Russellville) introduced this week. The bill is assigned to the House Ways and Means Committee on Education, and the companion is by Sen. Garlan Gudger (R—Cullman).
- A bill to expand an **income tax credit for certain port activities** was approved by a second House committee this week. The House Ports, Waterways, and Intermodal Transit Committee had already substituted the bill, and on Wednesday the House Ways and Means Committee on Education approved the bill with one amendment. HB293 by Rep. Chip Brown (R—Mobile) is pending third reading in the House.
- Alabama's voluntary **cleanup program for brownfield sites** would be bolstered by HB378 by Rep. Chip Brown (R—Mobile), which was the subject of a public hearing in the House Economic Development and Tourism Committee this week. As substituted and approved by the committee, the bill would extend liability

protections to more parties that choose to participate in the program and create brownfield redevelopment districts among other changes. The bill is on the House agenda for Tuesday, May 9.

ENERGY & TRANSPORTATION

- The proceeds from **fuel taxes levied by counties and municipalities** could only be used for roads and bridges with limited exceptions under HB254 by Rep. Steve Clouse (R—Ozark). The House passed the committee-approved version of the bill Tuesday and added a floor amendment. Sen. Shay Shelnuttt (R—Trussville) is sponsoring the companion bill.
- **Municipal authority to set speed limits on county-maintained roads** within a municipality would be limited somewhat under SB33 by Sen. Steve Livingston (R—Scottsboro) and Rep. Debbie Wood (R—Valley). It passed the legislature last week and is currently pending with the governor.

HEALTHCARE

- A **Health Professional Scope of Practice Review Commission** would be established to advise the legislature under HB345 by Rep. Wes Kitchens (R—Arab). The bill was scheduled for a public hearing Wednesday in the House Health Committee, where the bill was carried over.
- A 2019 state law requires the Alabama Board of Medical Examiners to adopt rules governing the prescribing and usage of medications containing **buprenorphine to treat opioid addiction**, but recent changes at the federal level conflict with provisions of this Alabama law. SB239 by Sen. Larry Stutts (R—Tuscumbia) would repeal the 2019 state law, and the bill passed the Senate Wednesday. Rep. Frances Holk-Jones (R—Foley) is sponsoring the companion.
- The **scope of practice for optometrists** would change under HB349 by Rep. Danny Garrett (R—Trussville), which was the subject of a public hearing Wednesday in the House Health Committee. The committee went on to approve the bill.
- The **Physician Workforce Act seeks to address workforce shortages** by providing for certain contingency licenses for physicians who under current law may not otherwise be given a path to board certification. HB243 by Rep. Paul Lee (R—Dothan) was approved this week by the Senate Healthcare Committee, and the House Health Committee approved the companion Wednesday, SB155 by Sen. April Weaver (R—Alabaster).
- The business community has shown concern about SB220 by Sen. Tom Butler (R—Madison) related to **pharmacy benefit managers (PBMs)** in part because the bill would allow pharmacists to refuse to fill a prescription if they are dissatisfied with the reimbursement amount. The Senate State Governmental Affairs Committee approved the bill this week with three amendments (1, 2, 3). The companion version is HB367 by Rep. Phillip Rigsby (R—Huntsville).
- The **scope of practice for podiatrists** will be revised under SB28 by Sen. Tim Melson (R—Florence), which the governor signed Wednesday. It is now Act 2023-106.
- The **scope of practice for social workers** is expanded under HB56 by Rep. Frances

Holk-Jones (R—Foley), which was signed by the governor Wednesday, becoming Act 2023-100.

- People with disabilities could not be **discriminated against in organ transplants**, according to HB122 by Rep. Debbie Wood (R—Valley), which was on the House’s working agenda for Thursday but the body adjourned before reaching it. The companion is SB208 by Sen. Randy Price (R—Opelika).
- **Emergency medical personnel and services** gain the same liability protections as other healthcare providers pursuant to HB162 by Rep. Ed Oliver (R—Dadeville) and Sen. Sam Givhan (R—Gurley). It received the governor’s signature Wednesday, making it Act 2023-103.
- Each entity in the **supply chain for pharmaceutical products** is required to obtain an annual permit from the Board of Pharmacy and pay an annual permit fee now under Act 2023-119. HB79 was sponsored by Rep. Phillip Rigsby (R—Huntsville) and Sen. Billy Beasley (D—Clayton).
- HB314 by Rep. Phillip Rigsby (R—Huntsville) proposes adjustments to **one-time emergency refills** dispensed by pharmacists, and it was approved Wednesday by the Senate Healthcare Committee.

STATE RETIREMENT

- **Local governments in the Employees’ Retirement System** would have more time to opt into the provisions of Act 2022-229, which allows for a one-time bonus payment to retirees. SB92 by Sen. Josh Carnley (R—Ino) and Rep. Reed Ingram (R—Mathews) is now Act 2023-107.
- A bill affecting **hazardous duty time** was signed by the governor Wednesday, becoming Act 2023-101. HB66 by Rep. Joe Lovvorn (R—Auburn) would remove the time limit for firefighters, law enforcement and correctional officers in the Retirement Systems of Alabama to purchase hazardous duty time.
- A bill to revise the **state police tier II plan** within the Employees’ Retirement System has been signed into law, turning SB68 by Sen. Clyde Chambliss (R—Prattville) into Act 2023-73.

EDUCATION

- Public schools and their athletic programs would have revised responsibilities aimed at **preventing sudden cardiac arrest** under HB45 by Rep. Jeremy Gray (D—Opelika), which was approved by the Senate Children and Youth Health Committee on Wednesday.
- The state’s **ban on transgender athletes** in K-12 schools would be extended to higher education under HB261 by Rep. Susan DuBose (R—Birmingham), which passed the Senate as amended. House concurrence with the Senate’s change is pending. Sen. April Weaver (R—Alabaster) is sponsoring the Senate version.
- Students would be required to complete a **financial literacy course** in order to graduate from high school with passage of HB164 by Rep. Andy Whitt (R—Ardmore), which passed the Senate Tuesday. It is now pending with the governor.

INSURANCE

- In post-adjudication situations, rules for **driver license suspension** for failure to appear in court or a missed payment would change under SB154 by Sen. Will Barfoot (R—Pike Road) to extend some grace so citizens can continue driving to work and other responsibilities. The new standard would be two missed court appearances or six missed payments. On Wednesday, the House Public Safety and Homeland Security Committee approved the bill with an amendment. Rep. Tim Wadsworth (R—Arley) has the companion.
- **Health insurers** could conduct all communication with enrollees electronically according to SB167 by Sen. Josh Carnley (R—Ino), which was approved Wednesday by the House Insurance Committee. The committee also approved the companion, HB393 by Rep. Brock Colvin (R—Guntersville).
- **Disability insurers could offer coverage for paid family leave** under HB141 by Rep. Corley Ellis (R—Columbiana) and Sen. Shay Shelnett (R—Trussville). It has been signed by the governor this week, becoming Act 2023-112.
- HB60 by Rep. Corley Ellis (R—Columbiana) and Sen. Shay Shelnett (R—Trussville) streamlines some aspects of **insurance industry licensure**. The governor signed the bill Wednesday, making it Act 2023-104.
- **Public notice requirements for the Alabama Department of Insurance** would be revised pursuant to HB161 by Rep. David Faulkner (R—Birmingham), which passed the Senate last week with an amendment. The bill is still pending House concurrence with the Senate’s change. The companion by Sen. Shay Shelnett (R—Trussville) is SB138.
- An exception allowing active-duty military to secure **mandatory motor vehicle liability insurance** in the state where they reside passed the Senate Tuesday. HB210 by Rep. Rhett Marques (R—Enterprise) and Sen. Josh Carnley (R—Ino) is now pending with the governor.
- Local governments could not enforce **building codes requiring installation of certain latent, non-operable features** (such as an electric vehicle charger) in a residential structure according to SB40 by Sen. Chris Elliott (R—Josephine) and Rep. Reed Ingram (R—Mathews). Gov. Kay Ivey has signed the bill, making it Act 2023-74.

EXECUTIVE POWERS

- This week the governor signed into law SB62 by Sen. Sam Givhan (R—Gurley) and Rep. Jamie Kiel (R—Russellville) to clarify the state’s ban on **price gouging during a state of emergency** so that the governor could specify if and where price controls should accompany a state of emergency. It is Act No. 2023-122.

GOVERNMENT PROCUREMENT

- Multiple **competitive bidding thresholds** in state law would increase with SB108 by Sen. Linda Coleman-Madison (D—Birmingham), which would also establish an

inflation adjustment going forward. The bill passed the House last week and is pending with the governor.

- The reach of the **Alabama Transportation Infrastructure Bank** would expand with passage of SB205 by Sen. Arthur Orr (R—Decatur), which passed the Senate Tuesday with a floor amendment. The bill would extend funding eligibility to additional entities and less expensive projects.
- The state's **Office of the Chief Procurement Officer** would become the Division of Procurement under SB100 by Sen. Arthur Orr (R—Decatur), which goes on to make further adjustments to procurement in the state and to the role of the Contract Review Legislative Oversight Committee. The bill passed the Senate Wednesday.

MILITARY AFFAIRS

- HB44 by Rep. Chris Blackshear (R—Smiths Station) and Sen. Billy Beasley (D—Clayton) to expand the **Alabama Job Creation and Military Stability Commission** passed the Senate Tuesday and is now pending with the governor.
- The House passed a bill Tuesday to update the **Military Family Jobs Opportunity Act** to extend professional license reciprocity to spouses of U.S. Department of Defense civil servants. SB37 by Sen. Sam Givhan (R—Gurley) and Rep. Phillip Rigsby (R—Huntsville) is currently pending with the governor.

BANKING

- This week, the Senate confirmed Mike Hill as the state's Superintendent of Banks. The Senate also confirmed these members of the Banking Board — William Lamar, Ron Poteat and Jason Eppenger.
- A bill to prohibit consideration of **environmental, social and governance (ESG) criteria** when awarding a public contract and to require a responsible bidder to certify that its employees will not be subject to a personal ESG rating as a basis of hiring, firing, or evaluation was approved by the House Commerce and Small Business Committee this week. HB188 is by Rep. Chip Brown (R—Mobile).
- **Financing arrangements for the sale or lease of motor vehicles** would be adjusted under SB15 by Sen. Shay Shelnett (R—Trussville). The bill, which affects insurance of motor vehicle value protection agreements, was approved by the House Insurance Committee this week.
- The procedures for **redeeming a property sold at a tax sale** would be revised under HB190 by Rep. Tim Wadsworth (R—Arley), which was again scheduled for consideration in the House Judiciary Committee this week but no action was taken. The companion is SB172 is by Sen. Sam Givhan (R—Gurley).
- SB11 by Sen. Will Barfoot (R—Pike Road) and Rep. Cynthia Lee Almond (R—Tuscaloosa) would revise the **Alabama Uniform Trust Code** to increase the threshold at which a noneconomic trust can be terminated. It passed the House Tuesday and is pending with the governor.

STATE GOVERNMENT

- Most state agencies would be required to **take certain measures to prevent fraud** before paying benefits to recipients according to SB197 by Sen. Arthur Orr (R—Decatur). On Wednesday, it passed the Senate as amended.

EMPLOYMENT LAW

- When determining if a **driver is an employee or an independent contractor**, a motor carrier’s implementation of safety requirements for drivers could not be considered under SB183 by Sen. Garlan Gudger (R—Cullman). It was approved Wednesday by the House Commerce and Small Business Committee. Also on Wednesday, the Senate Fiscal Responsibility and Economic Development Committee approved the companion bill, HB256 by Rep. Rhett Marques (R—Enterprise).
- **Overtime earnings would be exempt** from state income tax under HB217 by Rep. Anthony Daniels (D—Huntsville). The bill passed the House on Tuesday.

MANUFACTURING

- Public works projects utilizing iron would be required to use **iron produced in the United States** according to HB157 by Rep. David Faulkner (R—Birmingham), which passed the Senate on Tuesday and is pending with the governor.

RECREATION

- **Amusement rides and water slides** would be subject to new safety requirements pursuant to HB352 by Rep. Alan Baker (R—Brewton). On Tuesday, the House passed the committee-approved version of the bill and added a floor amendment. The Senate companion is by Sen. Greg Albritton (R—Atmore).

RETAIL

- The **crime of shoplifting** would be established, separate from theft, with passage of HB288 by Rep. Allen Treadaway (R—Morris). The bill, to be known as the Retail Theft Crime Prevention Act, is a top priority of Lt. Gov. Will Ainsworth and district attorneys. Treadaway’s bill was scheduled for consideration by the House Judiciary Committee this week but did not advance. The companion bill is SB206 by Sen. Clyde Chambliss (R—Prattville).

LOCAL GOVERNMENT

- HB114 by Rep. Matt Woods (R—Jasper) establishes a process and timeline by which **unclaimed funds in the county treasury** would be forfeited and forfeited funds could be spent on road and bridge infrastructure. The bill, now Act 2023-102, was signed by the governor Wednesday.
- The cost of some **municipal business licenses** is based on gross receipts, and SB169 by Sen. Gerald Allen (R—Cottondale) would exclude from the gross receipts calculation any excise taxes paid to federal, state or local governments. It passed the Senate Tuesday.

JUDICIARY

- Multiple attempts have been made to **add trial judges in growing areas** of the state

with little progress thus far this session. However, the Senate Judiciary Committee approved a substitute to SB39 by Sen. Sam Givhan (R—Gurley) this week that would have broader impact than previous proposals. The substitute would create — in specific areas of the state — four circuit judgeships and three district judgeships in 2024 followed by four circuit judgeships and 2 district judgeships in 2026.

REAL ESTATE

- **Condemnations and other judgments involving boundaries or titles** would have to be recorded in the probate court of the county in which the land is located according to HB328 by Rep. Ben Robbins (R—Sylacauga), which the House Judiciary Committee approved this week with an amendment.
- **Chinese citizens, entities and the Chinese government** would be prohibited from owning property in Alabama pursuant to HB379 by Rep. Scott Stadthagen (R—Hartselle). The bill was approved Wednesday by the House Urban and Rural Development Committee.
- In residential real estate, **buyers would be required to disclose intent to engage aspects of a wholesale transaction** under one provision of SB228 by Sen. Dan Roberts (R—Birmingham), which was approved by the House Commerce and Small Business Committee this week. The bill would also deem unenforceable certain unfair service agreements purporting to establish a long-term right to list.
- At present, there is an exception to the **Administrative Procedure Act** regarding the communication about the process used by tax officials to value real property for ad valorem purposes. HB399 by Rep. Chris Sells (R—Greenville) would remove this exception. The bill was considered by the House State Government Committee on Wednesday and carried over.

TECHNOLOGY

- Alabama's **Uniform Commercial Code** would undergo substantial revision according to HB348 by Rep. David Faulkner (R—Birmingham), and the bill includes a new article governing the transfer of **property rights in certain intangible digital assets** including electronic rights to payment. The House Judiciary Committee amended and approved the bill Wednesday.

HISTORIC PRESERVATION

- The **Alabama Memorial Preservation Act** would be revised under SB237 by Sen. Tom Butler (R—Madison). The bill would enhance enforcement, making it more difficult and costly to change a variety of monuments and markers, including those commemorating the Confederacy. The bill would also require a replica Saturn 1B Rocket to be installed at the northern-most rest stop on Interstate 65. SB237 was listed on the Senate State Governmental Affairs Committee's agenda Wednesday, but the panel took no action.
- **Tax credits for rehabilitating historic buildings** would be revised under HB253 by Rep. Adline Clarke (D—Mobile). The House Ways and Means Committee on Education approved the bill Wednesday as substituted and amended.

*The Alabama Legislature will reconvene on Tuesday, May 9,
for the 19th of 30 possible working days in the regular session.
It is expected to be a two-day week.*