

February 10, 2012

Jobs, Streamlining Government, Budget Woes

2012 Regular Session Hits All of Its Expected Themes in First Week

Living up to its reputation as a "do-something" Legislature, Alabama's first Republican majority in more than a century began its second regular session with a three-day work week, introductions of almost 500 bills and several of the bills on its agenda getting their first floor votes on just the third legislative day.

The GOP got right to its legislative priorities for this session: encouraging job creation, streamlining government and dealing with the state's budget crisis. This session, the Republican leadership has pledged to correct vague portions of the state's new immigration law and provide additional definitions to make the law clearer, especially in regards to the law's provisions related to subcontractors. Clearing up the immigration law is also part of the [Alabama Retail Association's 2012 Legislative Agenda](#).



The Democratic minority jumped into the action as well, also setting jobs as its priority and filibustering in an effort to stop GOP bills that they say will siphon off too much revenue from the state's ailing budgets. The Democrats have pledged to mandate that state contracts go to Alabama businesses, eliminate Alabama's sales tax on groceries and end what they call tax "loopholes" for large corporations. The Democratic agenda also calls for the repeal of the state's immigration law.

No matter the party affiliation, the most pressing issue of the 2012 legislative session will be the state's budgets. The General Fund budget, which funds all but education, faces more than \$500 million in shortfalls this year and next. The state's Education Trust Fund automatically loses \$151 million next year due to limits imposed by last year's Rolling Reserve Act, a budgeting method that requires the education budget be based on the average growth rate in the past 15 years. Democrats have called for a repeal of the act. Meanwhile, the GOP leadership has said it won't go along with the governor's plan to transfer education money to the general fund and general operating costs to the education budget. Most states have only one state budget.

According to a National Conference of State Legislatures survey, the top fiscal issues for all states will be Medicaid costs, which are

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growing faster than states can cover them, and the cost of paying for state employee and teacher pensions, as well as rising retirement and health insurance costs. Alabama is no different. Medicaid accounts for over a third of Alabama's General Fund budget. Some states have moved to managed care for Medicaid, which has resulted in delayed or no payments to doctors and pharmacists for their Medicaid patients and a greater rate of denied claims for the patients. **A move to managed care for Medicaid is possible in Alabama and ARA will be watching closely for such an attempt.**

Throughout the 2012 session as Alabama lawmakers wrestle with these and more issues, your Alabama Retail Association will be there to keep you informed of their actions and what those actions mean to retailers.

JOBS

Jobs, Economic Development Bills on the Move

Jobs-related bills were among the first on the GOP's legislative agenda making their way through the process. In the House, though, the chamber adjourned while debating one its top jobs bills.

INCOME TAXES WITHHELD INCENTIVE:

The House will resume debate Tuesday on a pair of bills to allow companies that locate in or expand to Alabama to retain a percentage of state income taxes withheld from full-time employees. To qualify, a company would have to invest at least a half million in a disadvantaged area, or \$2 million elsewhere. The governor, based on written recommendations from the Alabama Development Office director and finance director, could approve the incentives.

For a new or expansion project, the companies would be allowed to retain up to 90 percent of those taxes. To keep certain businesses inside the state that could move away, the governor could allow a company to retain up to 75 percent of the state income taxes withheld from eligible employees. [HB 160](#) by [Rep. Barry Mask, R-Wetumpka](#), specifies the incentive period can't exceed 20 years and the amount of incentives cannot exceed the projected capital costs.

A companion measure, [HB 159](#) makes the provisions of HB 160 a constitutional amendment and sets up a statewide vote. [SB 271](#), a similar measure by [Sen. Phil Williams, R-Rainbow City](#), is pending before the Senate Job Creation and Economic Development Committee.

DATA PROCESSING INCENTIVES:

On Thursday, the House approved the Alabama Data Processing Center Economic Incentive Enhancement Act, [HB 154](#) sponsored by [Rep. Dan Williams, R-Athens](#). The bill extends the period of time that local governments or industrial authorities can abate certain property and construction-related transaction taxes for data processing centers. It is intended to encourage data processing centers to locate in Alabama for up to 30 years and create 20 or more jobs, each with average compensation of \$40,000 annually.

The bill also applies to warehouse and storage facilities. It allows for

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BILLS

House

- [HB 9](#)
- [HB 27](#)
- [HB 29](#)
- [HB 38](#)
- [HB 38 Amend.](#)
- [HB 45](#)
- [HB 58](#)
- [HB 61](#)
- [HB 62](#)
- [HB 63](#)
- [HB 64](#)
- [HB 72](#)
- [HB 72 Amend.](#)
- [HB 88](#)
- [HB 92](#)
- [HB 105](#)
- [HB 107](#)
- [HB 140](#)
- [HB 152](#)
- [HB 154](#)
- [HB 159](#)
- [HB 160](#)
- [HB 199](#)
- [HB 240](#)
- [HB 242](#)
- [HB 271](#)

Senate

- [SB 23](#)
- [SB 37](#)
- [SB 41](#)
- [SB 48](#)
- [SB 52](#)
- [SB 57](#)
- [SB 57](#)
- [SB 66](#)
- [SB 74](#)
- [SB 75](#)
- [SB 75](#)
- [SB 100](#)
- [SB 171](#)
- [SB 184](#)
- [SB 195](#)

tax abatements for computer software used in a data processing center. The bill now goes to the Senate Finance and Taxation Education Committee for consideration.

MILITARY HIRING INCENTIVE

Also on the House agenda for Tuesday is The Heroes for Hire Tax Credit Act, [HB 152](#), by [Rep. DuWayne Bridges, R-Valley](#), which would give businesses a total of \$2,000 in tax credits for hiring veterans who were recently deployed to war and returned home. The bill, aimed at helping Iraq and Afghanistan war veterans, who are returning home is a \$1,000 increase from the current \$1,000 tax credit.

CAPITAL CREDITS

[SB 48](#) by [Sen. Arthur Orr, R-Decatur](#), could see floor debate next week. It extends the amount of time companies have to get an income tax break for capital improvements to four years. Qualifying businesses would have to create at least 100 new jobs and have capital costs of at least \$100 million. The bill allows those businesses to delay the initial utilization of the capital credit for up to three years after the project is placed in service. The Senate Finance and Taxation General Fund Committee approved the bill Wednesday on an 8-0 vote after a public hearing. The House companion, [HB 140](#) by [Rep. Micky Hammon, R-Decatur](#), awaits action by the House Economic Development and Tourism Committee.

The Alabama Education Association opposes some of these bills as drains on the state's Education Trust Fund, even though the jobs created would generate tax revenue the state currently doesn't have.

ARA AGENDA IN ACTION

Bill Would Further Penalize Those Committing Unemployment Compensation Fraud

The Alabama House had on its Thursday agenda, [HB 72](#) by [Rep. Paul DeMarco, R-Homewood](#), which would disqualify anyone convicted of falsely receiving unemployment compensation benefits for a year, in addition to criminal penalties and fines that already exist. The bill would also require anyone convicted of unemployment fraud to fully repay the state.

The Alabama Department of Industrial Relations estimates more than 12,000 people fraudulently received unemployment compensation in Alabama in 2011. Wednesday, the House State Government Committee approved the bill after amending it to create a fraud interest penalty account within the Unemployment Insurance Trust Fund. ARA supports legislation to reduce both unemployment and workers' compensation fraud as part of its 2012 agenda.

Retailers Once Again Oppose Making Allergy Meds Prescription Only

Seven bills have been introduced already in the 2012 regular session, which would make pseudoephedrine, ephedrine and phenylpropanolamine products controlled substances and thus require consumers to have a doctor's prescription for over-the-

- [SB 211](#)
- [SB 212](#)
- [SB 252](#)
- [SB 260](#)
- [SB 264](#)
- [SB 271](#)

IN THE NEWS

[Republican majority to tackle issues old, new in 2012 session](#)

[Democratic lawmakers will be on defensive during session](#)

[420 bills submitted as Alabama Legislature opens 2012 session](#)

[Changes loom for Alabama's 'strong' immigration law](#)

[Layoffs likely in Gov. Robert Bentley's proposed budget](#)

[GOP leaders to Bentley: Your budgets won't pass](#)

['Draconian' cuts could be coming for Alabama budget](#)

[Kentucky outlines 'bureaucratic nightmares' of managed care](#)

[House starts session with job creation bills](#)

[House approves incentives package](#)

[Bill would streamline Alabama tax assessment process](#)

[Changes coming to immigration law, no repeal](#)

[Changes loom for Alabama's 'strong' immigration law](#)

[Alabama bills propose increasing tobacco tax](#)

[IRS Continues to Weigh In](#)



counter products commonly used to treat common cold and allergy symptoms.

Only two states currently require consumers to obtain a prescription from their physician for these products. **ARA opposes making the products available by prescription only as it would limit their access to cold and allergy sufferers and drive up related health costs by as much as 50 percent.** Since Jan. 1, 2011, almost 100,000 boxes of these cold and allergy remedies commonly used in the illegal manufacture of methamphetamines have been blocked from sale as a result of Alabama's successful electronic tracking system, which ARA supported.

ARA opposes [HBs 29](#) and [88](#) by [Rep. Mike Millican, R-Hamilton](#); [HB 58](#) by [Rep. Elaine Beech, D-Chatom](#); [HB 92](#) by [Rep. Lynn Greer, R-Rogersville](#); [SBs 23](#) and [184](#) by [Sen. Roger Bedford, D-Russellville](#); and [SB 52](#) by [Sen. Paul Bussman, R-Cullman](#).

Taxpayers' Bill of Rights II is Back

An ARA-supported bill that died on the last night of the 2011 session, the Alabama Taxpayers' Bill of Rights II, has been reintroduced this session. [HB 105](#) by [Rep. Paul DeMarco, R-Homewood](#), would create an independent and qualified tax appeals court and make needed changes in the tax appeals process.

The Business Associations' Tax Coalition, a 29-member business trade association group that ARA President Rick Brown chairs, the Alabama Society of Certified Public Accountants, the Alabama Bar Association and the Council on State Taxation are among the groups supporting this legislation.

The bill, which awaits action by the House Judiciary Committee, is part of ARA's 2012 Legislative Agenda.

Love Reintroduces Gross Income Fix

[Rep. Jay Love, R-Montgomery](#), has again introduced the ARA- and BATC-supported legislative fix for an inequity in the tax code regarding gross income taxes for pass-through entities, such as partnerships, limited partnerships, limited liability companies and S corporation. The Senate was debating Love's bill when it adjourned at midnight on the final day of the 2011 regular session. This year's version, [HB 240](#), awaits action by the House Ways and Means Education Committee.

Unity Combined Reporting Proposal is Back

[HB 199](#) by [Rep. Richard Lindsey, D-Roanoke](#), would be detrimental to Alabama's ability to attract new businesses and keep the ones it has. It would require corporations to follow a set of unitary combined reporting rules when calculating their Alabama income taxes. The bill gives the Revenue Department full authority to promulgate rules and regulations to determine the details of the calculation.

Opposition to required unitary combined reporting for corporate

[on New Credit Card Reporting Requirements](#)

[Small Companies Win a Round on Taxes](#)

For more stories concerning legislative action and news of interest to retailers, go to [In the News](#)

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Those without e-mail addresses can be reached through the general e-mail address:

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There is no general e-mail address for senators. [Click here](#) for a roster of the state senators with their complete contact

Hopper Full of Immigration Bills

A plethora of bills have been introduced to address the state's new immigration law. Under that law, all employers, even if the business has only one employee, must enroll in the federal E-Verify system at dhs.gov/E-Verify by April 1, 2012. Businesses with 25 or fewer employees that do not have access to the Internet, can **call 1-855-VERIFY-6** Monday through Friday from 8 a.m. to 5 p.m. to have the Alabama Department of Homeland Security handle the E-Verify process for you. While the E-Verify provisions of the law are expected to stand, many lawmakers are proposing to otherwise modify or repeal the law.

While none the introductions in the first legislative week exactly address aspects of the law for which retailers need clarification, bills to address retailers' concerns are anticipated in coming weeks. **ARA will monitor these bills.**

Sen. Paul Sanford, R-Huntsville, has introduced seven bills that would alter the law: [SB 37](#), [SB 57](#), [SB 74](#), [SB 75](#), [SB 195](#), [SB 212](#) and [SB 260](#). On Thursday, Feb. 16, the Senate Fiscal Responsibility and Accountability Committee will debate SB 57 and SB 75.

Wednesday, the House Public Safety and Homeland Security Committee approved and amended [HB 38](#) by [Rep. Steve Clouse, R-Ozark](#), which adds a U.S. Uniformed Services Privilege and Identification Card as acceptable documentation for engaging in business transactions. The bill now goes to the full House for consideration. Similar bills, [SB 171](#) by [Sen. Jimmy Holley, R-Elba](#), and [SB 211](#) by [Sen. Bryan Taylor, R-Prattville](#), await action by the Senate Judiciary Committee.

Among several bills calling for the repeal of last year's Beason-Hammon Alabama Taxpayer and Citizen Protection Act is [SB 41](#) by [Sen. Billy Beasley, D-Clayton](#). It awaits action by the Senate Judiciary Committee.

TAXES

Energy-Efficient Sales Tax Holiday Back

[Rep. Greg Wren, R-Montgomery](#), has again proposed adding energy-efficient furnaces, refrigerators and other energy-efficient appliances and products valued at \$1,500 or less to the list of items included in Alabama's annual sales tax holiday, which is held in August. [HB 267](#) has been assigned to the House Ways and Means Education Committee. **ARA supports this bill.**



Bills Would Remove State Sales Tax from Groceries and Over-the-Counter Drugs

For a fifth year, [Rep. John Knight, D-Montgomery](#), has introduced a state constitutional amendment to remove the 4 percent state sales tax from groceries. [HB 45](#) uses the same definition of food as is used in the federal Supplemental Nutrition Assistance Program

LINKS GO TO CONTACT INFO:

The link to each lawmaker mentioned in this publication goes to their individual websites, which have contact information. You can also find out whose legislative district you live or work in under [Find Your Lawmaker](#) in the [Political Affairs](#) section of alabamaretail.org.

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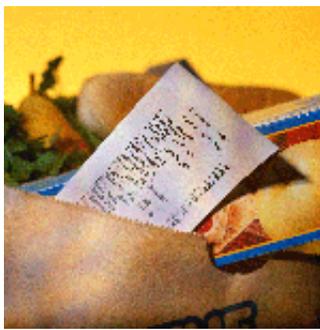
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(SNAP). This year's bill also would exempt over-the-counter drugs from state sales taxes. The bill does not contain an attached revenue-raising measure such as reducing the income tax deduction for federal income taxes paid as it has in years past. HB 45 awaits consideration by the House Ways and Means Education Committee.

Sen. Hank Sanders, D-Selma, has proposed tying a repeal of the state sales tax on food and over-the-counter drugs to reducing the income tax deduction for federal income taxes paid. **SB 66** is before the Senate Finance and Taxation Education Committee.

Blackwell Proposes Allowing Capital Losses to Carry Forward for Three Years

SB 252 by **Sen. Slade Blackwell, R-Birmingham**, would allow an Alabama taxpayer who incurs a capital loss to carry forward the loss for state income tax purposes for three years from the year in which the loss is incurred. It awaits consideration by the Senate Finance and Taxation Education Committee.

ALCOHOL AND TOBACCO

Taxes and Fees for Tobacco Consumption

The budget shortfalls inspire a spate of fees and taxes

Gaining widespread support among health and children's advocates as well as the state's newspapers are bills to raise taxes on cigarettes. **Rep. Patricia Todd, D-Birmingham**, has introduced two such bills. **HB 27** would increase cigarette taxes by 32.5 cents per pack from 42.5 cents to 75 cents, which would generate an estimated \$75 million annually for the state's General Fund, while **HB 107** tacks an extra \$1 tax onto each pack, which ups the revenue generated to \$230 million annually.



HB 9 by **Rep. Joe Hubbard, D-Montgomery**, also calls for \$1-a-pack additional tax, which would bring the total tax on each pack to nearly \$1.43. All three bills have been assigned to the House Ways and Means General Fund Committee. The governor and Republican leadership have said they will not support any new taxes.

Rep. Alan Harper, R-Aliceville, has reintroduced a one-time, \$100 filing fee and a \$250 annual licensing fee for tobacco product retailers. Currently, there are no fees associated with a retail tobacco license. **HB 61** awaits consideration by the House Economic Development and Tourism Committee. In the 2011 session, the same bill never received a committee hearing.

Alcohol Licenses' Fees Become a Revenue Target

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The average **Alabama grocery store could see the \$350 it now pays increase to \$1,250** for combined tobacco, wine, beer and application fees under legislation proposed so far as a way to generate revenue.

HB 62 by **Rep. Mike Hill, R-Columbiana**, would raise every license fee associated with alcohol. The bill awaits consideration by the House State Government Committee.

Rep. Lesley Vance, R-Phenix City, has proposed two alcohol fee increases. **HB 63** doubles the application filing fee for an alcoholic beverage license from \$50 to \$100. **HB 64** switches the renewal period for alcohol license renewals from Oct. 1 to between June 1 and July 31, while increasing the fee for late filing from 50 percent to 75 percent of the license fee. Both have been assigned to the House Economic Development and Tourism Committee.

Figures Proposes Smoking Ban for 14th Year

For the 14th year, **Sen. Vivian Figures, D-Mobile**, proposes a statewide smoking ban in any workplace, public building or public place. **SB 198**, which exempts private club, also requires businesses to post no-smoking signage. **SB 197** is a constitutional amendment to make the ban part of the constitution. Both have been assigned to the Senate Health Committee.

Sanford: Take Your Open, but Corked Wine Home



Sen. Paul Sanford, R-Huntsville, has proposed legislation, **SB 237**, to allow customers to take an opened bottle of wine from a properly licensed establishment, if the bottle has been recorked or resealed in a bag. The seller must also provide the customer with a dated receipt for the resealed wine bottle. The bill has been assigned to the

Senate Judiciary Committee. **Sanford and his wife, Danielle, own and operate Little Paul's Barbecue in Huntsville, which has been an ARA member since 2002.**

**ARA will continue to monitor
all of these tobacco and alcohol bills.**

LEGAL

ARA-Supported "Common Sense Consumption" Back

Lawmakers once again have proposed the ARA-supported Common Sense Consumption Act, which would protect retailers from civil action brought by those who claim the food sold by retailers made them obese. Three bills have been introduced so far:

SB 100 and **SB 264** by **Sen. Gerald Allen, R-Tuscaloosa**, are both pending before the Senate Judiciary Committee. **HB 242** by **Rep. Mike Jones, R-Andalusia**, awaits consideration by the House Judiciary Committee.

The full House and a Senate committee approved similar legislation in the 2011 regular session. **ARA supports these bills.**

SMALL BUSINESS

Holtzclaw Wants Agencies to Consider Small Businesses before Adopting Rules

SB 222 by [Sen. Bill Holtzclaw, R-Decatur](#), requires a small business regulatory flexibility analysis and a small business economic impact statement when a state agency proposes a new rule or rule change. The bill also requires agencies to review rules that could impact small businesses every five years. Under the bill, a business is considered small if it is independently owned and operated and employs fewer than 250 full-time employees or has gross annual sales of less than \$25 million. The bill has been assigned to the Senate Business and Labor Committee.

NEXT LEGISLATIVE DAY:

The Alabama House meets at 1 p.m. Tuesday, Feb. 14, for the fourth meeting day of the 2012 regular session. The Senate meets at 2 p.m.

FEDERAL

IRS Abandones 1099-K Form Reconciliation Mandate

The Internal Revenue Service decided Thursday to relieve retailers and other business taxpayers from new reporting requirements related to debit and credit card receipts. The IRS had previously announced that beginning with the 2011 filing year, businesses would be required to reconcile reimbursement information, such as cash back, sales taxes, state and local deposits and other non-income related dollars from gross receipts.

Last October, the IRS delayed implementation of the new requirement until 2012 and this week the IRS confirmed in a [letter to the Retail Industry Leaders Association](#) that it will not require that the information be separately reported. *"Our intention is that the reporting of gross receipts and sales on the 2012 income tax forms will be modeled on the 2010 income tax forms"* the IRS stated in the letter.

In a related development Thursday, U.S. Sens. John Thune, R-S.D., and Maria Cantwell, D-Wash., introduced the 1099K Overreach Prevention Act to prohibit the IRS from implementing the burdensome new tax reporting requirements. On Feb. 1, U.S. Reps. Aaron Schock and Bobby Schilling, both Illinois Republicans, had introduced companion legislation, [H.R. 3877](#). As part of the Housing and Economic Recovery Act of 2008.

Beginning next year, the IRS will collect a new document, known as a 1099-K form, from credit card companies and other third-party entities to keep track of all credit transactions for a merchant during a given year. The IRS previously had said it would require businesses to reconcile this report with their own internal numbers, increasing the accounting workload and costs for small businesses in particular.

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