



INTRODUCTION

After nearly two months of trying to find the votes to override the Governor's veto of the budget, it appears Republican leadership has changed their strategy. Last week and this week, Republican leadership has pushed House Bill 74, which was amended to be a bill that would refund taxpayers more than \$660 million this fall, by giving those taxpayers refunds of \$125 for individuals and \$250 per couple (as long as the return paid that much in taxes for 2018). In an effort to get around a budget impasse, Republicans have also begun pushing legislation to the Governor's desk containing mini-budget pieces which are particularly popular and will be difficult for the Governor to veto, such as State employee raises. On Thursday, the Governor called the push for House Bill 74 and the piecemeal budget bills "politics and gimmicks," but did not say if he intended to veto the series of bills. Sen. McKissick commented on the matter and says he expects a veto from the Governor, and suggests that the refund legislation "seems more for political messaging." These bills will be difficult for the Governor to veto from a political standpoint, and could potentially make it more difficult for Democrats to stick together to keep any vetoes from being over-ridden.

Gov. Cooper believes the State budget surplus would be better spent on education. He also said that this new strategy could suggest that Republican leadership knows that they won't get the votes they need for an override, so this is "another way to try and get the budget 100 percent their way" by piecing the budget together.

Republican leaders plan to begin moving pay increase bills this week for state employees and teachers, but have not indicated how much the raises will be. The legislative budget provided higher raises for state employees, whereas the Governor's budget provided bigger raises for teachers. Without the passing of the budget, teachers won't be seeing their percentage raises or their \$1,000 step increases they would have gotten through the final budget. Republicans hope that this will cause extra heat for the Governor with teachers as school starts back. With the Republicans' wave of new bills and new strategy, it appears that the budget controversy has merely just begun and there is no end of session in sight.



NORTH CAROLINA COLLEGE OF EMERGENCY PHYSICIANS



THIS LEGISLATIVE REPORT IS A PUBLICATION OF KOCHANЕК LAW GROUP AND IS A MEMBER BENEFIT OF NCCEP. ANY USE OR REPRODUCTION OF THIS REPORT IS LIMITED TO NCCEP AND ITS MEMBERS.

FOR MORE INFORMATION:

Colleen Kochanek
Ashley Matlock Perkinson
Rachel E. Beaulieu
P.O. Box 1038
Wake Forest, NC 27588
919.274.0982

colleen@kochaneklawgroup.com
ashley@perkinsonlawfirm.com
rachel@beaulieuedlaw.com
www.kochaneklawgroup.com

BILL UPDATES

HOUSE BILL 370, Require Cooperation with ICE Detainers. Governor Cooper vetoed this bill on August 21st, providing that, “This legislation is simply about scoring partisan political points and using fear to divide North Carolina. As the former top law enforcement officer of our state, I know that current law allows the state to jail and prosecute dangerous criminals regardless of immigration status. This bill, in addition to being unconstitutional, weakens law enforcement in North Carolina by mandating sheriffs do the job of federal agents, using local resources that could hurt their ability to protect their counties. Finally, to elevate their partisan political pandering, the legislature has made a sheriff’s violation of this new immigration duty as the only specifically named duty violation that can result in a sheriff’s removal from office.” **The bill has been sent back to the House Rules Committee.**

HOUSE BILL 555, Medicaid Transformation Implementation, was heard in the Senate Health Care and Finance committees, where the bill was completely replaced by a committee substitute. The bill, which previously dealt with telemedicine, now includes portions of the Health and Human Services section of the budget needed to progress North Carolina’s changes to Medicaid managed care. The bill would fund a \$218 million appropriation for the Medicaid Transformation initiative that has been delayed while the state budget is in limbo. **It also includes a \$73 million administrative cut to the Department of Health and Human Services that was included in the budget.**

The bill would also revise current hospital assessments to conform to managed care and applies the premiums tax to Medicaid capitation payments received by prepaid health plans in the same manner in which the tax currently applies to gross insurance premiums.

The bill would also revise the supplemental payment program for eligible medical professional providers to conform with managed care, effective October 1, 2019. The new system will be called the “Average Commercial Rate Supplemental and Directed Payment Program.” Instead of a limit on the number of eligible providers that can be reimbursed through the program, there will be a limit on total payments made. The payments will now be made of two parts: supplemental payments that increase reimbursement to the average commercial rate under the State Plan and directed payments that increase reimbursement to the average commercial rate under the managed care system. Consistent with the existing supplemental payment program for eligible medical professional providers, DHHS will limit the total amount of supplemental and directed payments that may be received by the eligible providers affiliated with East Carolina University Brody School of Medicine and UNC Health Care. **In addition, average commercial rate supplemental payments and directed payments will not be made for services provided in Wake County.**

The bill would establish the Hospital Uncompensated Care Fund as a non-reverting special fund to hold certain disproportionate share hospital adjustment (DSH) receipts to be used for payments to institutions for mental diseases and related to uncompensated care in accordance with rules established by DHHS. **The bill as amended was approved by the Senate Health Care and Finance Committees and will next be considered by the Full Senate.**

HOUSE BILL 704, Rural Health Care Stabilization Act, was heard in the Senate Finance Committee, where a committee substitute was approved. The new version is a clean version of Senate Bill 681(basically sending the bill as filed back over to the House), which had several items added in the House. The committee substitute would:

- provide loans for the support of eligible hospitals located in rural areas of the State that are in financial crisis;
- create the Rural Health Care Stabilization Fund as a non-reverting special fund in the Office of State Budget and Management to provide loans at below-market interest rates with structured repayment terms in order for the financially distressed hospitals;
- allow loan funds to be used to finance construction of new health care facilities and to provide for operational costs;
- establish that UNC Health Care will administer the program;
- clarify that UNC Health Care can not apply for a loan from the program;
- establish the loan application process and detail items that must be included in the applicant's plan to stabilize the hospital;
- charge UNC Health Care with reviewing and evaluating the applications, including the possibility for repayment of the loan, and issuing recommendations for funding to the Local Government Commission (LGC);
- provide for a third-party review of the application and recommendation to the LGC if UNC Health Care does not approve a loan application;
- establish the conditions that the applicant must meet to secure LGC approval of the loan;
- establish that the interest rate for a loan may not exceed the interest rate obtained by the State on its most recent general obligation bond offering and that maturity may not exceed 20 years; and
- require UNC Health Care to issue reports on the Fund on November 1st of each year.

The bill as amended was approved by the Senate Finance Committee and will next be considered by the Senate Rules Committee.

HOUSE BILL 918, Amend Abuse Laws/Expedite Permanency, was heard in the Senate Health Care Committee, where this bill regarding various abuse, neglect, and dependency laws with the goal of promoting safety for children in placements outside of the home was modified to expedite permanency for children under three years of age who have been removed from the home. The bill would also clarify that the term "abused juvenile" includes minors whose parents expose them to illegal drugs while in utero. **The bill as amended was approved by the Senate Health Care Committee and will next be considered by the Senate Judiciary Committee.**

SENATE BILL 250, Remove Foreign Citizens from Voting Rolls, was amended in the House Rules Committee to:

- require record retention of all requests for excusal from jury duty based on a disqualification to serve;
- require the clerk to report to the State Board of Elections persons disqualified from jury duty because the person is not a citizen of the United States (previously, required reporting disqualifications due to citizenship, residency, or criminal history), and used to conduct efforts to remove names from its list of registered voters;
- require the State Board to retain the electronic records for four years (was, two years), deem the records retained by the State Board public records, and allow the State Board to destroy the records when they are no longer public records (previously, allowed the superior court clerk to destroy the records at the end of each biennium); and
- conduct systematic efforts to remove the names of ineligible voters from the official lists of eligible voters.

The bill as amended was approved by the House Rules Committee and the Full House on its initial vote. The bill will next be considered on its final vote in the Full House.

SENATE BILL 559, Storm Securitization/Alt. Rates. This controversial bill supported by Duke Energy and opposed by many advocacy groups was amended on the House floor and makes the following changes to the fourth edition:

- removes all provisions of Part II, which would have authorized the Utilities Commission to approve alternate rate methodology (this was the highly controversial provision);
- instead, it directs the Utilities Commission, in coordination with the Public Staff, to study the advisability of authorizing specified alternatives to the methods for fixing rates under statute including studying multiyear rate plans, banding of authorized returns, performance-based ratemaking, revenue decoupling, or any combination of those methods, for general rate case proceedings for electric public utilities;
- requires the Commission to examine other states' experiences allowing alternative rate-setting mechanisms, identify associated advantages and disadvantages, and their impact on consumers, service quality, reliability, resource integration, electric grid modernization, emissions, and any other relevant factors;
- directs the Commission to establish a stakeholder process within 60 days of the effective date of the act to support and provide comment on the study;
- identifies 12 stakeholders to be included in the process to the extent feasible; and
- requires the Commission to report to the General Assembly by March 1, 2020.

The bill as amended was approved by the Full House and will next be considered by the Senate, to consider the changes made by the House.

- Colleen Kochanek
NCCEP Legislative Counsel
Kochanek Law Group
919.274.0982
colleen@kochaneklawgroup.com
www.kochaneklawgroup.comⁱ

Ashley Matlock Perkinson
Perkinson Law Firm
919.210.8209
ashley@perkinsonlawfirm.com

Rachel E. Beaulieu
Rachel E. Beaulieu Law Office, PLLC
919.896.6296
Rachel@BeaulieuEdLaw.com

ⁱ THIS LEGISLATIVE REPORT IS A PUBLICATION OF KOCHANEK LAW GROUP AND IS A MEMBER BENEFIT OF NCCEP. ANY USE OR REPRODUCTION OF THIS REPORT IS LIMITED TO NCCEP AND ITS MEMBERS.
