



INTRODUCTION

It has been a quiet two weeks at the General Assembly following many busy weeks at the legislative building for Crossover. With the gas shortage last week and the budget impasse this week, legislators had very light weeks with very few votes or even committee meetings. We now head into the long Memorial Day weekend, one which is especially loved by politicians of all stripes, as we celebrate the men and women in the armed services and the sacrifices they have made and continue to make for our country. Although it has been a difficult year and a half, many are welcoming getting back to some sense of normalcy and enjoying the long weekend. We hope that you enjoy yours!

BUDGET

What's a North Carolina legislative session without a budget impasse? In the initial negotiations between chambers to decide how many dollars to spend on the state's comprehensive spending plan, the House and Senate are still hundreds of millions of dollars apart. Per usual with our current legislative makeup, our Democratic Governor proposed a bigger total than the Republican-led House is willing to spend, and the House has proposed a bigger total than the Republican-led Senate is willing to spend.

Traditionally, the chambers take turns taking the first crack at the proposed budget. This year it was the Senate's turn to pass the first version of the budget, but the House expected to see it weeks ago. Now, House leaders are growing impatient. "They don't seem to want to come back and negotiate," said Rep. Jason Saine, a chief House budget-writer, further suggesting that Senators skip finalizing a total spending figure. "Were it me, I would move forward and just send the budget." Speaker Moore even joked that the Senate's budget must've "gotten lost in the mail." In a break from tradition, the House has decided to move ahead without the Senate's budget bill and will begin their House budget subcommittee meetings next week to discuss their own spending priorities.

Along with the total spending number, Senate leaders are taking issue with how the House suggests using non-recurring funds for long-term initiatives. "We do not want to use any more non-recurring money than we have to for recurring things," Senate Appropriations Committee co-chairman Brent



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
919.809.5600

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

Jackson said on Thursday, also noting that he hoped the chamber could send the House their counteroffer by the end of the week. Like House leaders, Gov. Cooper has also suggested that the Senate go ahead and pass their budget without a spending figure. Gov. Cooper explained that June's revenue forecast would ultimately adjust the figure anyhow.

Since 2017, Gov. Cooper has vetoed all three budget bills that have reached his desk. The budget for 2019 was never enacted since Republicans did not have the numbers to successfully override the Governor's veto. In North Carolina, the state government continues to operate under the previous budget plan if a budget is not enacted by the start of the new fiscal year on July 1. The legislature has filled the gaps on spending priorities by passing "mini-budget" bills since 2019. Initially there was a lot of optimism for a compromise budget that the Governor and legislature could agree on this session, but now Senate Leader Berger says there may not be a comprehensive budget this year after all. "I have expressed directly to the Speaker, and our Appropriations chairs have expressed directly to the Appropriations chairs in the House, that, if we get to July 1 without an agreement on a spend number, the pathway to actually adopting the budget becomes more complicated than the pathway to adopting mini-budgets," Berger said. At this time two years ago, both chambers had already approved their budget proposals.

SENATE TAX CUTS PLAN

Senators have introduced a tax cut plan that would cut individual income taxes by more than \$1 billion annually, would gradually phase out this state's corporate tax, and would provide additional grants to businesses affected by pandemic-related shutdowns. Senate Finance Chairman Sen. Newton held a press conference and presented the bill in committees this week. "The Republican philosophy [is] when government takes too much money from the people to give it back in the form of tax relief," Sen. Newton said at his press conference. "That's not the government's money. That's money North Carolinians earned and will keep, which, by the way, makes it the very best stimulus in the world."

House Bill 334 would reduce the personal income tax rate from 5.25% to 4.99% and increase the zero-tax bracket from \$21,500 to \$25,500 for a joint return and from \$10,750 to \$12,750 for single filers. It also proposes increasing the child tax deduction across the board by \$500. That deduction is income-based; a family earning less than \$40,000 per year would receive a \$3,000 deduction per child, the amount decreases going up the chain until the amount reaches zero dollars for a family earning \$140,000 per year or more.

Sen. Newton emphasized that, contrary to the narrative surrounding many tax cut proposals, this bill helps low-income families the most. "Opponents of tax cuts usually try to paint every proposal, regardless of the details, as some sort of tax giveaway to the rich," Sen. Newton said. "The big winners of these tax changes are those near the bottom of the income scale." A family of four earning \$38,000 would see their income tax decline by a full 50%; a family earning the median household income of roughly \$54,000 would see their income tax decline by 21%; and a family earning four times the median income, at around \$218,000, would see a more modest 6.9% decline. Over the next two years, the value of this tax cut to families in North Carolina would be more than \$2.1 billion dollars.

Under this bill, the state would gradually phase out the corporate income tax. Starting in 2024, the state would reduce the corporate income tax by 0.5% each year until it was completely eliminated by 2028. North Carolina collects less than a billion dollars from the corporate income tax each year, so personal income tax reductions will far outweigh the corporate tax changes in this bill.

House Bill 334 would set aside \$1 billion of North Carolina's share of American Rescue Plan funds to provide an additional round of business recovery grants for businesses and some nonprofits that received PPP loans or awards from four other business relief programs: the COVID-19 Job Retention program, the Economic Injury Disaster loan advance, the Restaurant Revitalization Fund, or the Shuttered Venue Operators grant program. Businesses would automatically qualify and receive up to \$18,750 based upon the aid they received. Most businesses would automatically receive a check in the mail by October 1st. Sen. Newton said the grant proposal would benefit as many as 400,000 businesses, potentially double what the House's PPP federal tax plan conformity would assist.

The bill was approved in the Senate Finance Committee and Senate Appropriations Committee earlier this week. It will go to the Senate Rules Committee next before it reaches a floor vote. It will likely end up in the Senate's budget bill and will be subject to negotiations with the House.

NEXT WEEK AT THE LEGISLATURE

The budget debate is expected to continue to slow down business at the legislature next week, too. The House plans to hold voting sessions on just Wednesday and Thursday of next week, so it's unlikely we will see a lot of bill movement next week.

EXECUTIVE ORDER NO. 216

Governor Cooper issued Executive Order 216, which reinstates work search requirements for all claimants of unemployment benefits beginning June 6, 2021. This action expands upon Gov. Cooper's Executive Order 200, which reinstated work search requirements for new claimants after March 14, 2021. According to Gov. Cooper's press release, North Carolina has distributed more than \$11.7 billion in unemployment benefits across multiple state and federal programs. Approximately 245,000 North Carolinians are currently receiving unemployment benefits. The order further instructs the Department of Commerce to explore opportunities to lawfully use federal funds to establish an incentive program for unemployed individuals who find and maintain employment. "Unemployment benefits have provided a critical lifeline for many North Carolinians living on the edge due to the pandemic. As our state emerges from the pandemic, we want to help people safely return to work as soon as possible. Reinstating the work search guidelines will help connect claimants with employers, resources and tools to help them return to the workforce," said Governor Cooper.

GOVERNOR'S PROPOSED COVID-19 RELIEF SPENDING

North Carolina is set to receive more than \$5.7 billion (yes – billion with a B) from the federal American Rescue Plan, funds designed to aid states in their recovery from the pandemic. With lots of money on the line, the big question is how to spend it. The Governor has some ideas. In particular, the Governor wants to invest substantially in broadband, education, infrastructure and housing. "This pandemic brought us a once-in-a-generation challenge. And these funds have brought us a once-in-a-generation opportunity," said Governor Cooper. "North Carolina's funding from the American Rescue Plan positions our state for a shared recovery and allows us to create a North Carolina that works for all."

Among other things, the Governor's proposal would:

- invest \$1.2 billion in broadband access and affordability to close the digital divide in North Carolina;
- invest \$350 million in the NC Guarantee Scholarship. The scholarship promises that students from families making \$60,000 a year or less will be guaranteed at least \$6,000

per year to cover the cost of attending any UNC institution or NC community college or receive a smaller award to attend a private college;

- invest \$800 million to support clean drinking water and reduce water pollution by fixing North Carolina's water and wastewater systems;
- invest \$25 million to support people who are disconnected from the workforce and increase their access to education, training, and support needed to obtain quality employment;
- invest \$575 million to address North Carolina's housing needs exacerbated by the COVID-19 pandemic, with an emphasis on increasing housing affordability and availability;
- invest \$350 million to promote economic recovery in the hardest-hit industries across the state through two programs that target restaurants and other food services, accommodations such as hotels, recreation and leisure, and personal services businesses;
- invest \$300 million to build the educator pipeline, expand NC Pre-K, support high-quality child care, and promote early literacy development; and
- invest \$250 million in grants to low-income and middle-income families with children to help alleviate widespread financial hardship across the state. The state would distribute grants of \$250 or \$500 to eligible families.

SENATE COMMITTEE ON AGRICULTURE, ENERGY, AND ENVIRONMENT HEARING

The Senate Committee on Agriculture, Energy and the Environment met this week to discuss the vulnerability of North Carolina's energy supply following the gas pipeline shutdown that prompted gas shortages throughout the state. The Colonial Pipeline, which provides almost all of the gas used in North Carolina, was offline for five days following a ransomware attack. This resulted in massive lines of people rushing to get fuel and gas shortages even after the pipeline was back online and steady. This incident made legislators take a second look at our resources and our vulnerabilities in emergency situations. "The Colonial Pipeline disruption could have been much worse, and it's foolish to presume North Carolina will not face a more severe energy supply shock in the future," Sen. Brent Jackson, chairman of the Senate Agriculture, Energy and Environment committee, told members at the start of the meeting. "It could happen next week, next year [or] next decade, but it's a question of when and not if."

The committee heard from four different industry executives: the NC Energy Commission, Duke Energy, Dominion Energy, and American Petroleum Institute. The main theme of the guest speakers' recommendations was for a higher degree of redundancy in our energy supply system in order to be better prepared to handle another emergency. While almost all of our liquid gas comes from Colonial Pipeline in this state, similarly we rely on one supplier for natural gas, Transco. David McGowan, Regional Director for the American Petroleum Institute, told committee members that North Carolina needs more pipelines, which is an unpopular take among various groups and environmentalists. In recent years, plans for additional pipelines in North Carolina have been canceled or caught up in litigation. Dominion Energy and Duke Energy announced the cancellation of their Atlantic Coast Pipeline project last year, citing cost uncertainty and delays. The Mountain Valley Pipeline, which would supply natural gas in western North Carolina, remains tied up in litigation.

BACK-TO-WORK BONUS BILL

House Bill 128 saw a major makeover in Senate Commerce and Insurance this week. Once a School Sporting Venue bill, now the bill aims to rebuild our state's workforce. Under this bill, North Carolina would use federal unemployment supplements to provide a \$1,500 bonus or \$800

bonus to people on unemployment for taking a job. The bill would further remove benefits for individuals who refuse jobs or skip job interviews, with a “three-strikes” policy. This bill has some work ahead, because the bill sponsors don’t know yet if the federal government will even allow the state to use federal supplements for the bonuses.

Sen. Chuck Edwards told the committee when presenting the bill that he is open to some changes moving forward, but believes this bill is critical to our state’s economy and that the incentives are a necessary step to get us back on track. This bill is in response to many businesses claiming that they can’t find enough employees, and argue that this is because of the boosted unemployment benefits individuals have seen from pandemic stimulus programs. "We see a lot of businesses that have just closed. They put up signs that say, 'We will be back when we can find employees,'" said Sen. Chuck Edwards.

SENATE BILL 722, REVISE MUNICIPAL REDISTRICTING/CENSUS

Senate Bill 722 was filed on Tuesday, and is already on the Senate calendar for a floor vote next week. This bill, filed by the Chairmen of Senate Redistricting and Elections, would provide North Carolina cities and towns the option to delay this year’s council elections if they need to redraw their districts and can’t accomplish that within the timeframe due to census delays.

The bill would require a city council to evaluate existing electoral district boundaries the year census data is released to determine if revision of the district boundaries is necessary to comply with state and federal law. If the city council has adopted revisions to the electoral district boundaries before the third business day before the opening of the filing period for the municipal election, the municipal election can continue as scheduled. If not, the city council would have the option of adopting a resolution delaying that municipal election and setting a new filing period for candidates for the rescheduled municipal election. Under these circumstances, the bill would allow a city or town to delay their elections until spring 2022, extending current elected officials’ terms.

Senate Bill 722 received bipartisan support in Senate Redistricting and Elections. The State Board of Elections requested some changes for better implementation of the legislation if passed, specifically with potential software issues from a schedule change. The bill sponsor indicated he would be happy to make those changes moving forward. It’s scheduled for a floor vote next Tuesday.

BILL UPDATES

HOUSE BILL 128, An Act to Reemploy NC's Workforce, was amended in the Senate Commerce and Insurance Committee to:

- direct the Division of Employment Security of the Department of Commerce to seek approval from the US Department of Labor to use federal funds, including Federal Pandemic Unemployment Compensation funds, allocated to North Carolina and enter an agreement with the Department of Labor to provide a back-to-work bonus as follows:
 - provides for a \$1,500 bonus for accepting reemployment within 30 days after the date the act becomes law, or an \$800 bonus for accepting reemployment within the period starting 30 days after the date the act becomes law and before 60 days after the date the act becomes law, payable in two installments;
 - prohibits payment of a bonus for accepting reemployment after September 6, 2021;
 - allows employers to report violations to the Division and requires the Division to audit, on its own or through a private third-party, all reported violations to

- determine if an individual's eligibility to receive benefits is impacted by the violation;
 - disqualifies an individual for any remaining benefits if the Division determines that the individual has failed, without good cause, to satisfy any of the interview response requirements three or more times during a benefit year;
- add to the required components of the Division's audit of the unemployment insurance program to include auditing at least 25% of all weekly certifications filed with the Division each week, including a review or examination of a sufficient nature to analyze whether the certification and any associated materials are accurate and have complied with applicable law in order to prevent, detect, and reduce fraud, improper payments, overpayments, and other programmatic irregularities.

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

HOUSE BILL 334, JOBS Grants and Tax Relief. The provisions of this bill were removed in the Senate Appropriations/Base Budget Committee and replaced with new provisions to provide grants to North Carolina businesses affected by the COVID-19 pandemic, provide tax relief to businesses and individuals, update the reference to the Internal Revenue Code, and make various other changes. These provisions include the following:

- creates the Job Opportunity and Business Saving Grant Program to be administered by the Department of Commerce to provide a one-time grant for each award amount to a qualifying business with the maximum grant per award amount set to seven and one-half percent (7.5%) of either the award amount or \$250,000, whichever is less;
- directs the Office of Historically Underutilized Businesses, Department of Administration, to inform and educate minority-owned businesses that may be eligible to apply for the grants provided by the Program as soon as practicable so they may have the opportunity to access the grants provided by it;
- decreases the individual income tax from 5.25% to 4.99%.
- increases the standard deductions: from \$21,500 to \$25,500 for married, filing jointly; from \$16,125 to \$19,125 for head of household; and from \$10,750 to \$12,750 for single and married, filing separately;
- increases the current child deduction amounts by \$500 for each filing category based on existing adjusted gross income (ADI) ranges, and adds new child deduction amounts for the following ADI ranges: provides a \$500 deduction amount for: married, filing jointly with ADI over \$120,000 and up to \$140,000; for head of household with ADI over \$90,000 and up to \$105,000; and for single or married, filing separately with ADI over \$60,000 and up to \$70,000;
- decreases the corporate income tax (currently 2.5%) to the following amounts: (1) 2% in 2024; (2) 1.5% in 2025; (3) 1% in 2026; (4) 0.5% in 2027; and (5) 0% after 2027;
- sets the corporate income tax cap at \$150,000;
- modifies the deadlines for informational returns due to the Secretary of Revenue to now require an employer who terminates its business before the close of the calendar year to file its informational return on or before the last day of the month following the end of the calendar quarter in which the employer terminates its business, but no later than January 31 of the succeeding year.

The bill as amended was approved by the Senate Appropriations/Base Budget Committee and will next be considered by the Senate Rules Committee.

LEGISLATION ENACTED

HOUSE BILL 395, HIE Deadline Extension & Patient Protection, was placed on the fast track for passage because of the looming June 1, 2021, deadline for HIE Network connection. The bill moved through both chambers and was signed into law by the Governor on the same day it was approved by the legislature. Before final passage, changes were made to the bill in committee and through amendments on the Senate floor. These changes would:

- authorize the Department of Health and Human Services to submit the required encounter and claims data on behalf of prepaid health plans and LME/MCOs;
- require physicians who perform procedures at ambulatory surgical centers to participate in HIE by January 1, 2023;
- explicitly require a physician who performs a procedure at an ambulatory surgical center to be connected to the HIE Network;
- prohibit in-network providers or entities providing health services under contract with the State Health plan who are not connected to the HIE Network from billing the State Health Plan or a plan member more than they would be billed if the provider were connected to the HIE Network. **(As a result of negotiations on the bill pursuant to concerns with earlier versions of the bill that would have prohibited any balanced billing, this provision will not become effective for 2 years);**
- direct the HIE Authority, the State Health Plan Division, and the Division of Health Benefits to identify all providers required to connect to the HIE Network as a requirement for receiving State funds, those providers who have not connected to the HIE Network, and providers whose deadline to connect to the HIE Network is approaching or has passed;
- direct the HIE Authority to contact providers identified and ascertain the status of their connection to the HIE Network;
- direct the HIE Authority to share with providers information about the Statewide Health Information Exchange Act and how to connect to the HIE Network;
- direct licensing authorities overseeing providers required to connect to the HIE Network to provide contact information of licensees when that information is not readily available to the HIE Authority, Department of State Treasurer, or Department of Health and Human Services;
- direct the Department of State Treasurer, Department of Health and Human Services, and licensing authorities to provide contact information of providers on or before November 1, 2021;
- direct the State Health Plan to provide claim encounter data to support the HIE Authority's report and fulfill responsibilities to operate the State Health Plan Division by November 1, 2021; and
- direct the State Health Plan Division to use and disclose claim payment data as needed to satisfy the HIE Authority's reporting requirement.

Effective: May 27, 2021.

SENATE BILL 103, Reduce Reg. To Help Children with Autism. This legislation establishes a licensure system for behavior analysts and assistant behavior analysts to treat Autism and establishes the NC Behavior Analysis Board to oversee these analysts. Behavior analysis is defined as the design, implementation, and evaluation of systematic instructional and environmental modifications to produce significant personal or interpersonal improvements in human behavior.

Effective: May 17, 2021, and applies to licenses granted or renewed on or after that date.

- Colleen Kochanek
NCCEP Legislative Counsel
Kochanek Law Group
919.809.5601
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 KOCHANЕК LAW GROUP AND IS A MEMBER BENEFIT OF NCCEP. ANY USE OR REPRODUCTION OF THIS REPORT IS LIMITED TO NCCEP AND ITS MEMBERS.
