



## INTRODUCTION

The weeks after the crossover deadline moved slowly as the House and Senate continued their behind the scenes battle about how much the State should spend (not the details, just the number). Things were going nowhere as the House was not moving Senate bills and the Senate was not moving House bills until the House made the bold move to go ahead with the budget process on their own. Speaker Moore made it clear that, with or without the Senate's proposed budget, the House would begin the budget process and would vote on a budget this session. This announcement seemed to get things moving again and the chambers resolved the final budget spending level so that the Senate can continue their proposed budget. We expect the Senate budget to be rolled out the week of June 21<sup>st</sup> and the House to roll out their proposal in July. Of course, the Governor still has a veto stamp, that he has shown he is more than willing to use, but probably wondered if he would even have a chance to use it with the Republicans battling themselves. Here are some of the other stories from the last two weeks.

## UNEMPLOYMENT BENEFITS

Last week, the Senate passed House Bill 128, An Act to Re-employ NC's Workforce, which would provide bonuses of up to \$1,500 for individuals currently receiving unemployment benefits to rejoin the workforce for at least 60 days. However, the Department of Labor has informed members that they would not be able to use federal unemployment funds to pay for the bonuses. During the bill's floor debate, some senators mentioned wishing they could get rid of the federal jobless aid altogether. The House has decided to do just that.

House members gutted Senate Bill 116, which was a sports-related bill, and amended it into the "Putting North Carolina Back to Work Act." This Act would remove North Carolina from the Federal Pandemic Unemployment Compensation program. If passed, this would make our state the 25th state to cancel these benefits before its scheduled end date on September 6th. According to the NC Department of Commerce, roughly a quarter-million North Carolinians are currently receiving this benefit. This aid amounts to \$300 weekly per person, and adds up to between \$72 and \$75 million federal dollars weekly coming in to North Carolina.



## NORTH CAROLINA COLLEGE OF EMERGENCY PHYSICIANS



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### 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](mailto:colleen@kochaneklawgroup.com)  
[ashley@perkinsonlawfirm.com](mailto:ashley@perkinsonlawfirm.com)  
[rachel@beaulieuedlaw.com](mailto:rachel@beaulieuedlaw.com)  
[www.kochaneklawgroup.com](http://www.kochaneklawgroup.com)

Republican leadership argued that the additional money is keeping workers at home and hurting this state's economy, especially small business owners. "We should not have a system in place that has been thrust upon us by this federal program where folks are incentivized not to work," Speaker Moore said. "It doesn't make sense. It's not how we can operate this economy." The Speaker also shared concerns for North Carolina's tourism industry this summer if this issue is not resolved. "The state of South Carolina is already doing this. And as a result, what's happening? Folks are going back to work, their economy is surging ahead of us," Moore said. "If we don't make these changes, their beach communities are going to do better, not just this year but in years to come because of this." Many Democrats spoke in opposition of the bill, arguing that our unemployment rate continues to fall and if people aren't returning to work, there's no evidence that unemployment benefits is the cause.

The bill would also provide tax breaks. It would allow business owners to deduct business expenses they used PPP money to pay for - a provision that has not garnered much support in the Senate. It would also provide tax breaks to people who collected unemployment benefits. The bill passed, 71-34 with seven Democrats voting in favor. It has now been returned to the Senate, where the bill may lose its momentum. Senior Policy Counsel for Senate Republicans, Brent Woodcox, tweeted shortly after the House vote, "There is no way the Governor signs this bill and I don't think a single Senate Democrat would vote for it. It appears to me to be dead on arrival."

### **SENATE REJECTS GOVERNOR'S DEQ SECRETARY NOMINATION**

The Senate surprised many this week by rejecting Gov. Cooper's nomination for the state's Secretary of the Department of Environmental Quality. Secretary Dionne Delli-Gatti had been acting in the role of secretary since February while awaiting her required confirmation by the state Senate. Republican leaders argued that the acting Secretary lacked the knowledge of natural gas and pipeline issues needed to properly fulfill her duties, based off of her answers in one two-hour committee hearing roughly five weeks ago. This party-line vote to reject her nomination was the first rejection of any of the Governor's nominations in the past five years.

Just fifteen minutes after the vote to reject the acting Secretary, Gov. Cooper announced a new position for outgoing Secretary Delli-Gatti: Clean Energy Director. In a news release, the role was described as a position focused on "administrative efforts to promote clean energy in North Carolina, including negotiating energy legislation." Her new position will maintain the same salary, as well. DEQ Chief Deputy John Nicholson will be the Department's interim secretary.

### **HOUSE BILL 334, JOB GRANTS AND TAX RELIEF**

The Senate has passed House Bill 334, a bill that would cut personal income taxes and gradually eliminate North Carolina's corporate income tax. The bill passed, 36-14, with eight Democrats joining Republicans in supporting the measure. The bill heads to the House now, where some members have already expressed support for most of the bill's plan. Gov. Cooper has not been so supportive. He has already cautioned legislators that he has no interest in creating corporate tax cuts. Following the floor vote, Sen. Newton pointed out that the bill received enough support to override a potential veto. Sen. Newton tweeted, "our tax plan keeps our promise to the public to provide tax relief in times when the government collects more money than it needs. It's our duty to pass along that prosperity to our citizens. The bill passed with a bipartisan vote of 36-14, a veto-proof supermajority." The bill could make its way into the final budget package.

## **BUDGET UPDATE**

Legislators announced last week that the chambers have managed to find common ground on the spending target for the state budget. Rep. Hardister tweeted, “The NC House and Senate have agreed on a spending target for the state budget. We are looking at \$25.7 billion in FY 21-22, an increase of 3.45 %. Our goal is to keep spending below the growth of inflation and population, balance the budget responsibly and save for the future.”

In a joint statement, Senate leader Berger and Speaker Moore said, “This agreement builds on the last decade of responsible Republican-led budgets resulting in a boom decade that put North Carolina on a strong trajectory to recover from the recession. As we work out the details of the budget, we intend to fulfill our commitment to balance the budget while saving for future needs and cutting taxes for the vast majority of residents.” Speaker Moore told reporters this week that he expects an adopted state budget by late July. In the meantime, North Carolina will continue to operate off of its current funding level.

## **LEGISLATORS CALL ON THE GOVERNOR OVER STATE OF EMERGENCY**

House Majority Leader John Bell and House Deputy Majority Whip Keith Kidwell have sent Gov. Cooper a letter, expressing their concern over the state’s current state of emergency. The House members ask the Governor for specific details and key “metrics and data” on what needed to be achieved in order for the state to end its self-declared state of emergency. The state has currently been under a state of emergency for over 450 days. In the letter the House members write, “There seems to be no urgency or plan to end the state of emergency. We believe this is unsatisfactory. The people of North Carolina have worked extremely hard to follow and adhere to social distancing guidelines and restrictions. They deserve more information and transparency in this process.” South Carolina ended their state of emergency this week, and Virginia has announced their intention to do the same.

## **GOV. COOPER ANNOUNCES VACCINE LOTTERY**

To incentivize North Carolinians to continue to be vaccinated, Gov. Cooper took a page from Ohio and is creating a vaccination lottery. The lottery will total \$4 million dollars in summer cash prizes. It will give away \$1 million dollars to four North Carolinians, 18 and older, and \$125,000 for post-secondary education for four North Carolinians, ages 12 to 17. “This is your shot at a million. Regardless of who wins, there’s no way to lose,” said Governor Cooper. “A chance at a million dollars is pretty good motivation. But even if your name isn’t drawn, the worst you’ll do is get strong protection from a deadly virus.” Individuals who have received at least one dose of the vaccine will automatically be entered into the drawing. The Summer Cash drawings will run from June 23rd to August 4th, with drawings every other week on Wednesdays. Those who are vaccinated after the announcement of the lottery will be entered twice.

## **SENATE ELECTIONS BILLS**

Several controversial election bills have passed through committees this week on a divided vote. The majority of Republican-led measures revolving around the security of our elections were divvied up into three separate elections bills heard by the Senate Redistricting and Elections committee this week: Senate Bill 326, Election Day Integrity Act, Senate Bill 724, Expand Access to Voter ID & Voting, and Senate Bill 725, Prohibit Private Money in Elections Administration.

Senate Bill 326 has been around for some time. It was presented as a Proposed Committee Substitute (PCS) in Senate Redistricting and Elections. Although some changes were made, the bill still would make close of business on Election Day the deadline for receiving absentee ballots. Some Democrats spoke in opposition of the measure, arguing that the deadline will disenfranchise

voters because of mail delivery delays that are out of their control. This bill passed Senate Rules on Thursday. Its next stop is the Senate floor for a vote.

Senate Bill 724, Expand Access to Voter ID & Voting, was filed early this week and ran alongside Senate Bill 326 through Senate Redistricting and Elections and Senate Rules this week. The bill is in response to recent litigation regarding blind and visually impaired voters. This bill would create an online portal for the blind and visually impaired to cast absentee ballots. It would also require the State Board of Elections to create and manage online voter registration through their website. Currently, most individuals can register to vote online through the Division of Motor Vehicles. Lastly, this bill would create a mobile program to distribute free photo identification cards to people from their homes.

Senate Bill 725, Prohibit Private Money in Elections Administration, also was filed at the start of this week and was the final elections bill that ran through committees this week. This bill prohibits elections boards from accepting any private funding to administer elections. All three bills are off to the Senate floor for a vote.

### **BILLS OF INTEREST**

SENATE BILL 724, Expand Access to Voter ID & Voting, would expand voter access by:

- establishing a voting portal for visually impaired voters to vote by absentee ballot online;
- allowing an individual who meets all of the specified criteria to complete and submit a voter registration application form to register to vote or update the voter's registration on the State Board of Elections' website; and
- stating the intent of the General Assembly to fund a program to identify and assist voters needing photo identification, and providing that the program will include a mobile component to visit individuals identified as needing photo identification to vote in person to ensure such photo identification is created for those individuals.

The bill was heard and amended in the Senate Redistricting and Elections Committee to:

- remove the provision that would have allowed, when submitting absentee ballots through the visually impaired portal, for the visually impaired voter and witness to sign the application electronically to instead provide that when submitting voted absentee ballots through the visually impaired portal, (1) the voted absentee ballots must be returned electronically to the county board of elections by 7:30 pm on the day of the statewide primary or general election or county bond election; (2) the voted absentee ballot must be witnessed in accordance with the specified statute, provided that a notary must not be permitted unless remote notarization is allowed by State law; and (3) the signatures of the visually impaired voter and witness must be submitted at the same time as the voted ballots and require the State Board to adopt rules to address signature;
- require the State Board to notify the individual that the application cannot be processed and submitted (was, denial of the application and notification of the denial) if the State Board cannot verify the driver's license, date of birth or Social Security number, and require the notification to state the deficiencies which the individual needs to cure; and require that the individual be given an opportunity to cure those deficiencies or to otherwise register to vote; and
- remove the proposed provision that added specified identifying information submitted during the online voter registration application process to the information that is confidential.

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

SENATE BILL 725, Prohibit Private Money in Elections Admin, would prohibit the State Board of Elections, county boards of elections, and county boards of commissioners from accepting private monetary donations, directly or indirectly, for conducting elections or employing individuals on a temporary basis. **Introduced by Senators Hise, Daniel, and Newton and referred to the Senate Rules Committee.**

## BILL UPDATES

HOUSE BILL 64, Government Transparency Act of 2021. The provisions of this bill were removed in the Senate Judiciary Committee and replaced with new provisions that would amend requirements for personnel recordkeeping to:

- require the date and general description of the reasons for each promotion, demotion, dismissal, transfer, suspension, or separation (dismissals, suspensions, and demotions were previously separated and required stated disciplinary reasoning);
- no longer require keeping records for suspension or demotion for disciplinary reasons of a copy of the written notice of the final decision of the head of the department setting forth the specific acts or omissions that are the basis of the dismissal;
- provide that nothing in the statute authorizes the disclosure of any confidential information protected by HIPAA, the Americans with Disabilities Act, or other applicable law;
- require that for the general descriptions of the reason for each promotion, demotion, dismissal, transfer, suspension, or separation: (1) no general description can disclose information otherwise prohibited from disclosure by an applicable law; and (2) the general description must become part of the record upon the later of the expiration of the time period to file an appeal or a final decision being entered in that administrative appeals process;
- amend the term *employee* as any current State employee, former State employee, or application for State employment and the term *employer* as any State department, university, divisions, bureau, commission, council or other agency subject to Article 7, by specifying that university includes the Board, the Board of Trustees, Chancellor, constituent institutions, and the President;
- make identical changes to the personnel recordkeeping requirements by local boards of education, community colleges and to the information that is considered public record for LME/MCOs, local governments, and water and sewer authorities;
- make these changes applicable to the public health authority employee information that is public record and also (1) requires the type of promotion, demotion, transfer, suspension, separation, or other change in position classification to be public record; and (2) includes as public record the office or station to which the employee is currently assigned;
- provide the same changes to the public hospital employee information that is public record and also requires the type of the promotion, demotion, transfer, suspension, separation, or other change in position classification to be public record;
- require, by November 30, 2021, each employer affected by this act to adopt personnel policies to effectuate the act to allow its employees to challenge the wording of the general description of any promotion, demotion, transfer, suspension, separation, or dismissal occurring on or after December 1, 2021.

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

SENATE BILL 116, Putting North Carolina Back to Work Act. The provisions of this bill were removed in the House Finance Committee and replaced with new provisions that would:

- explicitly deny the Division of Employment Security, Department of Commerce, the authority to administer payments under the Federal Pandemic Unemployment Compensation (FPUC) program, effective 30 days after the date the act becomes law, and state that the legislative purpose of this Section is to withdraw from the FPUC agreement that provides additional payments to unemployment insurance claimants through September 6, 2021;
- amend the definition of the term *Code* to provide a distinct definition for the purpose of the amount of any expense deducted under the Code (defined as the Internal Revenue Code as it existed as of May 1, 2020) to the extent that payment of the expense results in forgiveness of a covered loan pursuant to section 1106(b) of the federal CARES Act, defining the term to mean the Internal Revenue Code as enacted as of January 1, 2021;
- define *covered loan* to include certain small business loans under the Paycheck Protection Program/PPP, effective for taxable years beginning on or after January 1, 2020, and expiring for taxable years beginning on or after January 1, 2022;
- repeal the statutes that require corporate and individual taxpayers to add to the taxpayer's adjusted gross income the amount of any expense deducted under the Internal Revenue Code to the extent that payment of the expense results in forgiveness of a covered loan pursuant to section 1106(b) of the federal CARES Act (governing the Payment Protection Program/PPP) and the income associated with the forgiveness is excluded from gross income pursuant to the CARES Act; and
- allow a taxpayer to deduct the amount excluded from the taxpayer's gross income for unemployment compensation received by the taxpayer under section 9042 of the American Rescue Plan Act of 2021.

The bill was further amended on the House floor to appropriate \$250 million to the Department of Health and Human Services, Division of Child Development and Early Childhood Education, from Federal Child Care and Development block grant funds received under the American Rescue Plan Act for subsidized child care for eligible children. **The bill as amended was approved by the full House and will next be considered by the Senate Rules Committee.**

SENATE BILL 255, 2021 AOC Legislative Changes, has been approved by both chambers of the General Assembly. The first part of the bill would change the instructions given to a jury in a medical malpractice case, reducing the oral instructions to written ones. The senior resident superior court judge, in consultation with the parties to the case, would be required to designate a specific resident judge or a specific judge assigned to hold court in the district to preside over all proceedings in a medical malpractice case. **The bill has been approved by both chambers and sent to Governor Cooper for signature.**

SENATE BILL 719, Confirm Dionne Delli-Gatti/Sec. of DEQ, was amended on the Senate floor to express the body's refusal to consent to the appointment of Dionne Delli-Gatti as Secretary of the Department of Environmental Quality. This was the first time the General Assembly failed to confirm one of Governor Cooper's nominees. Senate Republicans said their primary concerns were about Delli-Gatti's knowledge of natural gas issues and the MVP Southgate Pipeline that would run from Virginia into North Carolina. There were rumors in Raleigh that an energy company was behind the failed appointment. Governor Cooper responded by naming Delli-Gatti as North Carolina's Clean Energy Director.

- Colleen Kochanek  
NCCEP Legislative Counsel  
Kochanek Law Group  
919.809.5601  
[colleen@kochaneklawgroup.com](mailto:colleen@kochaneklawgroup.com)  
[www.kochaneklawgroup.com](http://www.kochaneklawgroup.com)<sup>i</sup>

Ashley Matlock Perkinson  
Perkinson Law Firm  
919.210.8209  
[ashley@perkinsonlawfirm.com](mailto:ashley@perkinsonlawfirm.com)

Rachel E. Beaulieu  
Rachel E. Beaulieu Law Office, PLLC  
919.896.6296  
[Rachel@BeaulieuEdLaw.com](mailto:Rachel@BeaulieuEdLaw.com)

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