



INTRODUCTION

Budget season is in full swing! Republican Senators held a press conference last week to announce their long-awaited budget proposal. Senate Leader Phil Berger explained that their proposal can be summed up in two ways: cutting taxes and constructing the state's post-pandemic future. In typical Senate speed they revealed their budget and moved it quickly through committees and onto the Senate floor where it was approved by a vote of 32 to 17.



NEW REVENUE FORECAST

North Carolina's nonpartisan budget agencies released a revenue forecast that predicted an estimated \$6.04 billion in over-collections, with total General Fund revenue up 13.6%, individual income tax up to 12.6%, sales and use tax up 14.5%, and corporate and franchise tax up 35.4%. This surplus throws a whole new layer into the budget debate moving forward. State leaders have expressed varying opinions on the forecast, showing yet again the fundamental differences amongst leadership when it comes to spending for this state.

The state's democratic Governor sees this as a win-win opportunity. "These new numbers show unprecedented resources are now available to make transformational investments for our state. Even though the Republican Senate bill giving big tax breaks to corporations and the wealthy is bad policy, we have enough money to pass my entire budget plus all those tax breaks with more money still remaining. We must now negotiate a responsible bipartisan budget that addresses everyone's concerns," said Governor Cooper.

Republican Senate leader Phil Berger sees the billions in surplus as a sign that our state is improperly handling North Carolinians' money. "A huge surplus does not mean we're spending too little. It means we're taxing too much." Meanwhile, Republican House Speaker Tim Moore believes this surplus is the result of a strong economy created by Republican policies. "There is no question that the strength of North Carolina's economic outlook is proof that Republican policies work, and it is no coincidence that our state is the number two destination for Americans fleeing other states with bleak economic outlooks. North Carolina's overall fiscal policy has set the stage for a commitment to conservative tax policies and we will continue to work collaboratively with the Governor and the Senate to keep our state on an upward trajectory of economic growth," said Speaker Moore.

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

HOUSE ENERGY CHAIRS UNVEIL MAJOR ENERGY BILL

After many months of closed-door meetings between various energy-related stakeholders, such as Duke Energy, representatives of the renewable energy industry, major electricity customers, and House Republicans, a nearly 50-page bill has been introduced. This bill would set the energy policy future of the state for nearly the next decade. Among other things, this bill would significantly increase solar energy generation, include heavily sought-after regulatory changes for Duke Energy, move forward on re-licensing nuclear plants, retire five coal plants early, and would cut greenhouse gas emissions from power plants by 61% by 2030. This is just 9% shy of Gov. Cooper's energy plan, which called for a 70% cut.

Prior to its first hearing, Gov. Cooper already expressed his concerns with this bill. Gov. Cooper said the bill would "cost ratepayers too much, fall short of clean energy goals, hamper job recruitment and weaken the Utilities Commission, which exists to provide accountability for utility companies." He went on to say that "it takes some steps toward more renewable energy but not nearly enough, and it's clear they need to go back to the drawing board and negotiate with a broader spectrum of stakeholders in order to get a better plan." Various environmental advocates believe the bill relies too heavily on natural gas moving forward, and manufacturing groups have serious concerns about the cost of implementation of this new energy policy.

The bill was presented by Energy Chairmen, Rep. Arp and Rep. Szoka. Both expressed a willingness to listen to concerns and to make some adjustments to the bill if necessary. The bill is currently supported by Duke Energy, electric co-ops, and the North Carolina Chamber. Given the sheer size of this bill and its dense regulatory jargon, Energy committee members requested a slower approach on the bill in order to fully understand its consequences prior to a vote in the committee.

DEMOCRATS STICK TOGETHER ON REPUBLICAN-LED ELECTIONS BILLS

As mentioned in previous updates, Senate Republicans have been moving several elections bills through committee which reached a floor vote last 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, were all passed on a 28-21 party-line vote.

While a couple Senate Democrats questioned Republican bill sponsors' motives behind the Election Day Integrity Act and if it originated from their belief that there was widespread voter fraud in the past election, Republican Sen. Warren Daniel maintained that the bill was based off of best practices and was geared towards setting the record straight with the State Board of Elections and Attorney General that settlements like the one they entered into before the past election cannot happen in the future. Senate Democrats argued that these bills would result in bipartisan disenfranchisement, and that throwing out valid absentee ballots by this new Election Day deadline is the opposite of election integrity. The bills are now headed over to the House.

BUDGET

Here are some of the highlights of the Senate Budget, Senate Bill 105, The 2021 Appropriations Act:

- Tax cuts. The budget would decrease the personal income tax rate from 5.25 percent to 3.99 percent by 2026.

- Pay raises for state employees. There would be a 1.5% raise for state employees, including teachers, for both years of the budget. There are also \$1,000 - \$1,500 bonuses for all state employees coming from Federal funds.
- Funds for infrastructure projects. The bill would provide \$1.2 billion towards road resurfacing, \$680 million for bridges, and \$727 million for rural broadband.
- Funds for testing the state's backlog of rape kits. The bill would provide \$10 million to test the remaining rape kits from the state's backlog.
- Funds for direct care workers. This bill allocates \$17.5 million to increase the pay for those working in direct care facilities.
- Senate leader Phil Berger acknowledged that this was just the starting point for the budget, and not the budget bill that will reach Gov. Cooper's desk. We'll soon see the House's proposal, then the chambers will negotiate between themselves and with the Governor's office.

Possibly the most important part of the health provisions of the Senate's version of the budget is what is not included. Once again, Medicaid expansion, a top priority for Governor Cooper, is not included in the budget. This policy disagreement fractured the budget process in 2019 and could lead to a veto again this biennium. Other key provisions of the budget:

- Extends Medicaid benefits for low-income pregnant women from the current 60-days after birth to a year after birth. (a small Medicaid Expansion)
- Includes language from SB 505, the Senate's balanced billing bill. This budget provision focuses on notice requirements for out-of-network care and is opposed by the **North Carolina College of Emergency Physicians**.
- Provides necessary funding for the implementation of Medicaid Transformation.
- Provides \$30 million to the North Carolina Policy Collaboratory for COVID research grants, including up to \$18 million to the Rapidly Emerging Antiviral Drug Development Initiative at the University of North Carolina at Chapel Hill.
- Appropriates \$5.9 million over the biennium to the residency program at the East Carolina University Brody School of Medicine.
- Appropriates \$7 million to Wake Forest Institute for Regenerative Medicine for a research project to accelerate the development of treatment to harmful chemical and biological agents.
- Provides \$10 million in nonrecurring funds in both years of the biennium for competitive grants to support students in crisis, school safety training, and safety equipment in schools.
- Creates a private database to track officers involved in use-of-force incidents that result in serious injury or death and two public databases to track discipline and decertification records.
- Provides \$10 million to test rape kits to address the rape kit backlog.

BILL UPDATES

HOUSE BILL 96, Allow Pharmacists to Admin. Injectable Drugs, was heard in the Senate Health Care Committee, where a new version was approved. The latest version of the bill would:

- allow immunizing pharmacists to administer vaccinations approved by the FDA in accordance with the protocols established by the Advisory Committee on Immunization Practices to those at least six years old following a prescription initiated by a provider following a physical exam of the patient;

- list five categories of medications an immunizing pharmacist can order, dispense, deliver, or administer, including FDA-approved nicotine replacement therapy, self-administered or transdermal contraceptives, and post-exposure prophylaxis medications for the prevention of HIV;
- establish requirements for immunizing pharmacists who order, dispense, deliver, or administer the medications listed, including maintaining a record of medication administered to the patient; notifying any PCP identified by the patient within 72 hours after administration, or if none identified, furnishing information regarding PCPs; furnishing patient records to the patient upon request; furnishing patient records to the PCP identified by the patient upon request by the PCP; and counseling the patient about preventative care if hormonal contraceptives were administered or dispensed;
- condition the authority of the immunizing pharmacist to order, dispense, deliver, or administer the medications listed on rules to be jointly developed by the NC Medical Board and the NC Board of Pharmacy;
- allow an immunizing pharmacist to administer to a patient any prescribed, self-administered injectable medication;
- allow immunizing pharmacists to administer long-acting injectable medications, specifically including testosterone injections and vitamin B12, to persons 18 or older pursuant to a specific prescription order initiated by a prescriber following an exam of the patient that conforms to the standards of acceptable and prevailing medical practice;
- require immunizing pharmacists administering such long-acting injectable medications to notify the prescriber if the medication was not administered to the patient within 72 hours of receipt of the prescription;
- allow immunizing pharmacists, and pharmacy interns and pharmacy technicians under the supervision of an immunizing pharmacist if related continuing pharmacy education requirements are met, to administer the flu vaccine, FDA-approved COVID-19 vaccines, and COVID-19 vaccines authorized under an emergency use authorization by the FDA to persons 10 or older;
- allow immunizing pharmacists to administer the flu vaccine, FDA-approved COVID-19 vaccines, and COVID-19 vaccines authorized under an emergency use authorization by the FDA to persons 6 or older pursuant to a specific prescription initiated by a prescriber following a physical exam of the patient;
- direct the joint subcommittee of the NC Medical Board and the NC Board of Pharmacy to develop statewide written protocols and amend existing rules and protocols to encompass the new authorized treatments and practices for immunizing pharmacists;
- direct the Boards' joint subcommittee to adopt rules to govern the administration of vaccines by pharmacy technicians;
- direct the State Health Director to issue a standing order authorizing immunizing pharmacists to dispense, deliver, and administer medication as described in the bill, which would remain in effect until the later of the development of the statewide protocols or January 1, 2023.

The bill was approved by the Senate Health Care Committee and will next be considered by the Senate Committee on Commerce and Insurance.

HOUSE BILL 181, Wildlife Resources Comm'n. Amendments, was amended on the House floor to extend eligibility for reduced price lifetime hunting and fishing licenses to rescue squads and EMS. Specifically, the bill would allow those who volunteer as members of a rescue squad or emergency medical services squad for five consecutive fiscal years to be eligible for an adult resident lifetime hunting and fishing license at 50% of the applicable license fee amount. **The bill**

was approved by the House and will next be considered by the Committee on Rules and Operations of the Senate.

HOUSE BILL 453, Human Life Nondiscrimination Act/No Eugenics, was vetoed by Governor Cooper on June 25. HB 453 would prohibit a person from intentionally or knowingly performing, inducing or attempting to perform an abortion if the abortion is being sought because of the actual or presumed race or sex of the unborn child or because of the presence of Downs Syndrome.

SENATE BILL 173, Free the Smiles Act. The provisions of this bill were removed in the House Education K-12 Committee and replaced with new provisions that would: (1) grant the governing board of any public school unit or any nonpublic school the exclusive authority to determine the use of face coverings, and any appropriate exceptions to those requirements, during the instructional day on its respective campus for the 2021-22 school year; and (2) authorize the Governor to require the use of face coverings for an individual public or nonpublic school for the 2021-22 school year to reduce the transmission of an airborne communicable disease during a state of emergency, with specified reasons for the requirement stated in the executive order, but would prohibit a single executive order from including a statewide face covering requirement for public or nonpublic schools. The bill was further amended in the House Rules Committee to require a local board to vote on a policy requiring mandatory face coverings for employees and students during the instructional day that will apply in the first instructional month of the school year by August 1, 2021 and to vote at least monthly on whether such a policy adopted during the school year should be repealed or modified, regardless of whether the policy applies to the first instructional month or later, for as long as the policy remains in effect. **The bill was amended was approved by the House Rules Committee and the full House and will next be considered by the Senate Rules Committee.**

SENATE BILL 208, Labor Law Changes, was amended in the House State Government Committee to:

- amend the statute that governs payment to separated employees to specify that employees whose employment is discontinued must be paid all wages due on or before the next regular payday either through the regular pay channels or by trackable mail if requested by the employee in writing (was either through the regular pay channels or by mail if requested by the employee);
- require employers to notify employees in writing at least one pay period prior to any changes in promised wages, rather than in writing or through a posted notice at least 24 hours prior to the changes and require employers to notify employees in writing (was, orally or in writing) at the time of hiring of the promised wages and the day and place for payment; and
- amend the civil penalties for violations of employer record keeping requirements to now set the penalty at up to \$250 per employee with a maximum of \$2,000 per violation (was, per investigation).

The bill as amended was approved by the House State Government and Rules Committees and the full House. The Senate will now consider the changes made to the bill by the House.

SENATE BILL 326, Election Day Integrity Act, was amended on the Senate floor to require absentee ballots to be received by the county board of elections by 7:30 p.m. rather than by 5:00 p.m. on the day of the statewide primary or general election or county bond election. Absentee ballots not received by that specified time could be accepted if the State Board of Elections has extended the closing time of the polls for every poll in the county pursuant to state law, whereby the ballots must be received by the closing time as extended by the State Board in order to be

counted, in lieu of being accepted only if federal law so requires. **The bill as amended was approved by the Senate and will next be considered by the House Rules Committee.**

SENATE BILL 542, SHP Combat Fraud/Property Finders Stnds, was heard in the House Committee on Pensions and Retirement, where a new version was approved. The bill would allow the State Health Plan to incentivize plan members to report fraud, waste, and abuse by providers, offering incentives of \$500 or 2% of any net recovery made by the SHP, whichever is less. Plan members would be encouraged to report violations of State or federal law, rule, or regulation; fraud; misappropriation of state resources; or gross mismanagement, a gross waste of monies, or a gross abuse of authority. **The bill was approved by the House Committee on Pensions and Retirement and will next be considered by the Committee on Rules, Calendar, and Operations of the House.**

SENATE BILL 724, Expand Access to Voter ID & Voting, was amended on the Senate floor to remove the provisions that would have allowed for online voter registration. Instead, the bill would amend provisions regarding voter registration at driver's license offices to:

- direct the State Board of Elections and the Division of Motor Vehicles to jointly develop and maintain an online voter registration system allowing applicants to complete an application to register to vote or update an existing voter registration (excluding updates to gender or ethnicity), regardless of whether the applicant is also simultaneously conducting a transaction, so long as the online system complies with form requirements set forth in state law;
- limit online registration application eligibility to individuals who are either eligible to register to vote in the state or currently registered to vote in the state, and who have been previously issued a driver's license or a special identification card for a nonoperator's license;
- make the DMV responsible for validating the applicant's identity, protecting and securing data maintained in the online system, and maintaining the security of the online system;
- provide that the State Board is responsible for forwarding the online registration applications to the appropriate county board;
- expand the Class I felony offense for willfully and knowingly and with fraudulent intent giving false information on a voter registration application completed at a driver's license office to include online applications.

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

SENATE BILL 726, Confirm Dave Richard/Director of Health Benefits, is a joint resolution confirming the appointment of Dave Richard as Director of the Division of Health Benefits in the Department of Health and Human Services, beginning upon confirmation and ending June 30, 2025. **The Senate confirmed the appointment on June 25 and it will next be heard by the House.**

LEGISLATION ENACTED

SENATE BILL 135, Improve Anatomical Gift Donation Process. This legislation requires an anatomical gift donor who originally became donor in another jurisdiction and applies for a drivers license or identification card in this State to authorize that a statement or symbol be imprinted on the donor's drivers license or identification card issued in this State in order for the anatomical gift to be valid. A statement or symbol on a drivers license or identification card issued in this State

indicating that the donor has made an anatomical gift will remain on the donor's drivers license or identification card until the donor revokes consent to make an anatomical gift by requesting removal of the statement or symbol from the drivers license or identification card in the manner prescribed by the Division of Motor Vehicles. **Effective: October 1, 2021.**

SENATE BILL 248, Additional Info on Health Ins. Cards. This legislation requires every insurer offering a health benefit plan to include on the insurance identification card provided to health benefit plan subscribers or members an indication of whether the health benefit plan is a fully insured or self-funded plan. Plans that are fully insured must be noted by using the phrase "fully insured" to indicate to the consumer that the Department is able to provide assistance regarding the regulation of the plan. **Effective: January 1, 2022, and applies to contracts entered into, amended, 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.