

NC Legislative Update: August 23, 2019

Related Professionals

David P. Ferrell
919.573.7421
dferrell@nexsenpruet.com

Michelle L. Frazier
919.573.7433
mfrazier@nexsenpruet.com

Practices

Government Contracts
Public Policy & Governmental Affairs
Legislative & Regulatory

Industries

Public Sector and Government

08.23.2019

The budget stalemate between the legislature and Governor Cooper continued this week, with both chambers holding votes on various bills, but no vote taken on overriding Governor Cooper's budget veto. Given the current budget impasse, the Senate has started moving several "mini budgets" which include pieces of various sections of the budget bill passed by the legislature earlier this year. The Senate amended House Bill 555 to include provisions from the Health and Human Services budget that allocate funds for Medicaid Transformation, which is the State's movement to capitated Medicaid contracts. The Senate also amended House Bill 609 to now include an appropriation for a 2.5% raise for correctional officers. Moving the budget in pieces has been brought up before as a tactic to get around a budget deal tied to the Governor's Medicaid expansion demand. Governor Cooper says that the piecemeal budget idea is a "gimmick" and Democrats have called it a political move to force Cooper to veto seemingly popular bills before an election year.

While the budget stalemate continues the State will continue operating under a 2015 law that prevents a government shutdown by keeping in place the recurring funding levels of last year's budget until a new one is adopted. House Speaker Tim Moore has indicated that he still believes that the House will be able to override the veto, and continues to place the motion to override on the House calendar. This will require at least several House Democrats to be absent, since 51 of the 55 House Democrats have signed on to a letter pledging that they will not vote to override Governor Cooper's veto.

WRAL: <https://www.wral.com/gimmicks-cooper-says-as-republicans-change-tactics-on-budget/18585533/>

Taxpayer Refund Act

Earlier this year, lawmakers announced that the State's over collections had resulted in a \$900 million surplus. They touted this as proof that their policies and tax cuts have resulted in increased revenue by growing the economy. This week, Senate Leader Phil Berger and House Speaker Tim Moore announced a plan to send part of the surplus back to the taxpayers. In a plan unveiled on Thursday, Senator Berger explained that taxpayers

who filed individually will receive a \$125 refund and those who filed jointly will receive a \$250 refund. The refunds will go to nearly 5.1 million tax filers, but will cost to \$5.5 million to administer. In all, House Bill 74 will cost \$660 million. Refund checks will go out on December 15, 2019 and February 1, 2020, depending on when the tax filing was received. During a Senate Finance Committee hearing, Democrats raised concerns that the money could be better used to address pending needs in the State, like school construction, healthcare, and infrastructure. Republicans responded that those items were dealt with in the budget they passed, and are currently being blocked by Governor Cooper's veto. They urged the Democrats to help override the veto to address those issues.

WRAL: <https://www.wral.com/lawmakers-offer-to-refund-900m-budget-surplus-to-nc-taxpayers/18583336/>

Rural Health Care Stabilization Act

Both chambers have passed legislation to create a rural hospital loan program for rural hospitals in jeopardy of bankruptcy. The legislation originally passed the Senate and the House amended the loan maturity timeline, but the House also added provisions to allow local governments more flexibility on their sales tax and expand eligibility for the State's Utility Account. Instead of reaching a compromise to the different versions of the bill in conference, the Senate choose to abandon the original bill and insert their language into an unrelated dental bill that had already passed the House. House Bill 704 now includes the Senate's original plan, with the House change to the loan maturity timeline, but the sales tax and Utility Fund sections have been removed. The bill targets a struggling hospital in Randolph County, but any hospital can apply, outside of UNC Health Care, which will be in charge of administering the fund.

Governor Cooper Vetoes

Governor Cooper issued his 33rd and 34th veto with week, raising objections to House Bill 370 and House Bill 645. House Bill 370 would require Sheriffs to comply with the controversial federal 287(g) immigration program. The program is operated by the U.S. Immigration and Customs Enforcement Agency (ICE) and allows local law enforcement offices to voluntarily cooperate with ICE to enforce various immigration laws. House Bill 370 would make it mandatory for all sheriffs to participate in the program, and the Senate added a provision to allow for a superior court judge to remove a sheriff from office if the sheriff did not comply with the program. Under the 287 (g) program, sheriffs will be required to hold suspected illegal immigrants and report their status to ICE. In his veto message, Governor Cooper claimed that the bill was unconstitutional, and called it "partisan political pandering."

House Bill 370 dealt with relocating existing billboards when they are condemned, mostly due to highway expansion projects, and established a regulatory framework for where relocated billboards can be placed. The industry has cited that there are 1,000 fewer billboards in the State than there were 10 years ago, mostly due to local regulations prohibiting condemned billboards from being relocated. By vetoing the bill, Governor Cooper is needlessly costing the taxpayers and the Department of Transportation, which is in the middle of large-scale layoffs due to budget shortfalls, since property owners are due compensation when billboards are taken by eminent domain. In his veto message, Governor Cooper raised concerns over removing local control, ignoring the fact local governments had to grant permission for the billboard to go up in the first place. The Outdoor Advertising Association calls Cooper's decision "misguided" and claims that he gave a gross misrepresentation of the bill in his veto remarks. The veto came as a surprise to many, since the bill represented a compromise with stakeholders, including the League of Municipalities, County Commissioners' Association, several large cities, and even the Governor's own Department of Transportation,

all of whom were neutral on the bill.

WRAL: <https://www.wral.com/cooper-vetoes-bill-requiring-sheriffs-to-honor-ice-detainers/18583029/>

WRAL: <https://www.wral.com/cooper-vetoes-changes-to-billboard-regulations/18585680/>

US News: <https://www.usnews.com/news/best-states/north-carolina/articles/2019-08-22/cooper-vetoes-north-carolina-billboard-relocation-bill>

Senate Rejects Healthy NC Bill

The Senate voted not to concur on an omnibus healthcare bill passed by the House last week. The bill, dubbed “Healthy NC” contained the following nine parts: creates a Psychology Interjurisdictional Compact (PSYPACT), allows licensed marriage and family therapists to perform first examinations for involuntary commitments, eliminates redundant adult care home inspections, creates the Lupus Advisory Council, requires that insurers develop formularies for Center for Medicare and Medicaid Services (CMS) approved step therapy, requires insurers to cover oral chemo drugs the same as injected chemo, requires Medicaid to pay for telemedicine, requires private insurance and the State Health Plan to cover telehealth services, and creates the North Carolina Healthcare Solutions Task Force. The bill passed the House by a large margin of 106-3, but the Senate has historically blocked similar provisions in the bill dealing with what they consider to be insurance mandates. Conferees have not been appointed.

Duke Energy Bill Converted to Study

The House passed a bill that was intended to allow the NC Utilities Commission to approve rate increases for multiple years at a time, however, in mixed political vote on a floor amendment, the controversial section of the bill was turned into a study. Duke Energy has been pushing the bill, claiming that it will allow them to better plan for long-term upgrades to the energy grid, however, numerous large energy users, like Google and Walmart, have opposed the bill, along with environmental groups and associations. The Senate has indicated that they will not concur with the changes.

WRAL: <https://www.wral.com/duke-energy-bill-hits-hurdle-key-section-now-a-study/18581393/>

2019 Session Laws

The following 200 bills have become law this session:

1. SB 7: Bipartisan Ethics Appointments
2. SB 75: Restore Ct. of Appeals Membership
3. SB 77: Ag Disaster Fund/Certain Counties
4. SB 214: Ensure Orderly 2019 Elections

5. SB 12: Fill Certain Vacancies/Alexander & Burke Co.
6. SB 56: Revenue Laws Technical Changes
7. SB 4: Extend Terms of 2 Members/Coastal Carolina CC
8. SB 272: Zoning for University Facilities-Durham
9. SB 6: Dare County/CC Construction Funds
10. SB 162: Loan Origination/Late Payment Charge Changes
11. HB 263: Fill Vacancies/Modify 2018 Appointments
12. SB 63: City of Kannapolis/Annexation
13. HB 130: Allow Game Nights
14. SB 505: Rural Job Retention Act
15. SB 605: Highway Storm Recovery Act
16. HB 1014: 2020 Census VTD Verification Program
17. SB 310: Electric Co-Op Rural Broadband Services
18. HB 363: Craft Beer Distribution & Modernization Act
19. HB 233: State Auditor/Local Finance Officer Amends
20. HB 532: DNCR Add New Trails & Various Changes
21. HB 388: Immunizing Pharmacists
22. HB 646: ID Approval/Flex Muni One-Stop
23. HB 70: Delay NC HealthConnex for Certain Providers
24. HB 9: Bessemer City Charter Amendment
25. HB 201: Randolph Co. Register of Deeds Tax Cert
26. SB 252: Dental Bill of Rights
27. SB 138: Even-Yr Municipal Elections/Town of Black Mtn.
28. SB 139: Even-Yr. Municipal Elections/Town of Montreat
29. HB 336: Extend Suspension of Spencer Mountain
30. SB 235: Franklin/Nash Municipalities/Unfit Dwellings
31. SB 30 Stanly CC/Contracting Date Extension
32. SB 381: Reconstitute/Clarify Boards and Commissions
33. HB 301: CIP Revisions/Juvenile Code
34. HB 179: Mini-Truck Classification
35. HB 131: Repeal Map Act
36. HB 82: Railroad Crossings/On-Track Equipment

37. SB 648: Support Shellfish Aquaculture
38. SB 448: Amend Appt For Compact on Education/Military
39. SB 255: State Board Construction Contract Claim
40. SB 151: Break or Enter Pharmacy/Increase Penalty
41. HB 617: Allow Repeat Referral to Teen Court
42. HB 578: Modify Legitimations Provisions
43. HB 548: Modify Physical Therapy Definition
44. HB 383: Topsail Beach Charter/Board Vacancies
45. HB 1016: UNC Boards of Trustees Appointments
46. HB 1017: Special Master Wake House Plan
47. HB 415: Photos of Juveniles/Show-Ups
48. SB 148: Public Records/Release of LEO Recordings
49. SB 11: ABC Regulation and Reform
50. SB 466: EDPNC Modifications
51. HB 57: Create Term for Public Schs. & Codify NCVPS
52. HB 389: ABC/Univ Athletic Facility
53. HB 531: Tenants at Foreclosure Act Restored
54. HB 658: Allow Donations of Unexpired Drugs
55. HB 664: myFutureNC/Postsecondary Attainment Goal
56. HB 432: Water/Sewer to Contiguous Dwelling Units
57. HB 219: NAIC Accreditation Amendments.-AB
58. SB 80: China Grove Satellite Annexation
59. SB 242: Recreational Land Fee Changes
60. SB 227: TP3/Principal Fellows Consolidation
61. SB 84: Walkertown Zoning Authorizations
62. SB 262: Union/Prohibit Certain Hunting Acts
63. SB 674: Surry Co./Mt. Airy/Elkin City/Bd. Ed Partisan
64. HB 15: Lexington/Dissolve Utilities Commission
65. HB 240: Albemarle/City Labor for Business Ctr
66. HB 299: Henderson Cty/Build Community College Bldgs
67. HB 6: Burlington Airport/Lease/Contract Authority
68. SB 225: Repeal Tuition Surcharge

69. HB 537: Hwy Use Tax Vehicle Subscriptions
70. HB 934: Right to Try Adult Stem Cell Treatments
71. SB 219: Modify Teacher Licensing Requirements
72. SB 55: Continuing Education for General Contractors
73. SB 483: Vacation Rental Act Changes
74. SB 610: Authorize Northern Peaks Trail
75. SB 95: Veterans Memorial Funds/Do Not Revert
76. SB 556: GSC People First Language 2019
77. SB 529: Fees/Returned Checks
78. SB 88: Electrician Requirements for Certain Orgs
79. SB 313: Guar. to Streamline Afford. Housing
80. SB 127: Protect Governmental Accountability
81. HB 656: Medicaid Changes for Transformation
82. HB 924: Teacher Contract Changes
83. HB 474: Death by Distribution
84. HB 67: Road Barrier Prohibition
85. HB 310: Clarify Insurance Prod'r Crim. Bckgrd Check
86. HB 812: Nutrient Offset Amendments
87. HB 886: Study Participation of Operators in NC Pre-K
88. HB 529: Utilities/Water and Wastewater Consumption
89. HB 917: Emergency Declaration/Clarify Rd Closure
90. HB 747: NC Missing Person Information Sharing
91. HB 770: Freedom to Work/OLB Reform
92. HB 871: Fair Contracts
93. HB 4: Claremont Deannexation
94. HB 52: Wrightsville Beach Local Act Amendment
95. HB 204: Town of Beaufort/Annexation
96. HB 349: Wilkes County Fire Tax-Procedure
97. HB 489: Lincolnton-Lincoln County Airport Authority
98. HB 80: Roanoke Rapids Lake/Unattended Equip
99. HB 237: Brunswick County Zoning Procedure Changes
100. HB 368: Bermuda Run/Speed Restrictions

101. HB 98: Macon/Clay/No Right-of-Way Spotlighting
102. HB 134: Filling Vacancy/Onslow County Board of Comm
103. HB 170: Various Satellite Annexations
104. HB 187: Amend Town of Elon Charter/Parking Ordinances
105. HB 285: City of Sanford/Town of Beaufort/Vol Annex
106. HB 239: Pitt County Animal Control Records
107. HB 324: Local Hunting Omnibus
108. HB 429: Navigable Waters/Manteo/Hyde
109. SB 191: Out-of-State Law Enforcement/2020 Rep Convtn
110. SB 399: Rehire High-Need Teachers
111. SB 355: Land-Use Regulatory Changes
112. SB 378: Local Economic Development Modifications
113. SB 394: Changes to Estates & Trusts Statutes
114. SB 311: Massage Board Membership
115. HB 257: Motorcycles/Face Masks
116. HB 224: Assault w/ Firearm on LEO/Increase Punishment
117. SB 594: Register of Deeds Updates
118. SB 525: Textile Hist. Site/Operate SE NC Museum
119. SB 220: Removal of Political Signs by Citizens
120. SB 500: Modify Advanced Math Course Enrollment
121. SB 186: Beaufort-Morehead Cty Airport Authority/Amend
122. SB 686: Appointments Bill 2019
123. HB 492: Simplify Builder Inventory Exclusion
124. HB 402: UNC Capital Projects
125. SB 384: Clarify Motor Vehicle Dealer Laws
126. HB 761: Clarify Wastewater Permitting Liability
127. HB 758: MSD Expansion and Governance/DACS Study
128. HB 755: Travel Insurance Amendments
129. HB 735: Adopt Rules Incorporating 2017 Food Code
130. HB 629: Law Enforcement Mutual Aid
131. HB 495: No Municipal Reg/Off-Site Wastewater Systems
132. HB 329: Renewable Energy Amends

133. HB 156: Swain County Settlement Trust Fund
134. HB 138: Damage Jail & Prison Fire Sprinkler/Penalty
135. HB 106: Inmate Health Care & 340B Program
136. HB 18: Allow Absentee Ballots/Fire District Election
137. HB 757: Pender County/Butner Property Transfers
138. SB 535: Authorize State Park/Clarify Corps Name
139. HB 668: Various Higher Education Changes
140. HB 590: Amend Administrative Procedure Laws
141. SB 444: Allow Use of Oyster Shells As Serving Dishes
142. HB 411: Modify School Qual./Student Success Indicator
143. SB 210: Organ & Tissue Donation/Heart Heroes
144. SB 316: Affordable Housing
145. SB 297: Cancer Research Advisory Panel
146. SB 462: Modifications to NC Appraisal Board
147. SB 508: Civil Procedure/Deponent Declaration
148. SB 606: Prioritize Native NC Plants on Highway ROW
149. HB 107: PED Oversight/EPP Changes
150. HB 323: Assess Costs of Local LEO Crime Lab Analysis
151. HB 268: Amend On-Site Wastewater Laws/Misc. TC
152. HB 243: State Human Resources Act Amendments.-AB
153. HB 337: Change Salvage Vehicle Transfer Requirements
154. HB 362: 15-Point Scale For School Performance Grades
155. HB 546: Prohibit Counterfeit/Nonfunctional Airbags
156. HB 620: Street Database/Manual/Public Record Except
157. SB 29: Move Over Law/Increase Penalties/Amber Lights
158. HB 198: Human Trafficking Commission Recommendations.-AB
159. HB 325: Opioid Epidemic Response Act
160. SB 194: West Jefferson/Saluda Satellite Annexations
161. SB 420: NC Servicemembers Civil Relief Act
162. SB 218: Clarify State Recognition - Lumbee Indians
163. SB 145: Allow Sports/Horse Race Wagering Tribal Lands
164. SB 332: Civil Procedure/Limitations/Land Surveyors

- 165. SB 343: Various Education Law Changes
- 166. SB 391: Expand Youth Internship Opportunities
- 167. SB 478: Modify Appointment Reporting
- 168. SB 493: DVPO Abuser Treatment/Time of Expiration
- 169. SB 523: Laws Clarifying & Administrative Changes
- 170. SB 604: Amend NC Veterinary Practice Act
- 171. SB 108: PED/Safekeeper Health Care Cost Recov. Pract
- 172. HB 469: Various Family Law Changes
- 173. HB 628: 2019 Banking & Mortgage Corrections & Changes
- 174. HB 675: 2019 Building Code Regulatory Reform
- 175. HB 50: Allow Hyperbaric Oxygen Therapy for TBI/PTSD
- 176. HB 922: Enhance Insurance Coverage/Educ. Buildings
- 177. HB 264: GSC Technical Corrections 2019
- 178. SB 532: Amends Probate/Trusts/Wills Choice of Law
- 179. HB 220: Insurance Technical Changes.-AB
- 180. SB 302: Update ACH Svc & Care Plan/Bd of Nursing
- 181. SB 385: Clarify/Auto Dealers Regulatory Req
- 182. SB 290: ABC Regulatory Reform Bill
- 183. SB 9: Female Genital Mutilation/Clarify Prohibition
- 184. SB 301: Regional School Modifications
- 185. SB 366: 9th/10th Grade/College Transfer Pathways
- 186. SB 413: Raise the Age Modifications
- 187. SB 498: Facilitate Response to Disasters
- 188. HB 724: Truth in Caller ID Act
- 189. HB 872: Underground Utility Safety Act/Changes
- 190. SB 190: Expand Special Assessments for Dam Repair
- 191. HB 228: Modernize Laws Pertaining to NC Medical Board.-AB
- 192. HB 961: Ensuring Authorization of Federal Funds
- 193. HB 760: Expand Loss Prevention Investigations
- 194. HB 391: Passenger Protection Act
- 195. HB 590: Modify Continuing Ed for Real Estate Brokers
- 196. SB 321: Federal Motor Carrier Safety/PRISM

- 197. SB 68: Relocation of Water/Sewer Line Costs
 - 198. SB 584: Criminal Law Reform
 - 199. HB 206: Various Transportation Changes
 - 200. HB 217: DIT Changes.-AB
-

More about Nexsen Pruet's North Carolina Public Policy Team

In addition to providing Government Affairs Services, the Nexsen Pruet Public Policy team provides attorneys and clients with a newsletter summarizing the week's activities and conveying the inner workings of the legislative process and state government in Raleigh during the legislative session. Please feel free to pass this along to your clients or other interested parties. If you would like to receive the update in your inbox, please email shernandez@nexsenpruet.com to be added to the list. If you are interested in learning more about how Nexsen Pruet can help you achieve your public policy goals and acquiring legislative representation in North Carolina or South Carolina, please reach out to Sandy Sands at ssands@nexsenpruet.com or Ross Barnhardt at rbarnhardt@nexsenpruet.com.