



INTRODUCTION

On March 6th, Governor Roy Cooper released his \$25.2 billion budget proposal for the coming biennium, a proposal he claims would provide “visionary investments” in education, health care, and infrastructure. Among other provisions, the Governor’s budget includes:

- a 9.1 percent average raise for teachers over the next two years;
- state employees’ raises of 1.5 percent or \$500, whichever is greater, in each of the next two years;
- \$500 more per year, on top of the state employee raise, for law enforcement officers, corrections officers, people who work in state hospitals, and non-certified school employees;
- a one-time 2 percent cost-of-living adjustment for state retirees;
- an expansion of Medicaid to include health coverage for low-income working adults;
- asking for voter approval next year to fund a \$3.9 billion bond towards school construction and local infrastructure projects;
- \$30 million to pay community college tuition for students being trained in high demand fields, such as architecture, construction, health sciences, information technology, electrical line work and manufacturing;
- \$6.5 million to remove the \$50 fee teachers must pay for a substitute in order to take a personal leave day;
- \$5 million to provide free school breakfasts and lunches to students who qualify;
- \$6 million over the next two years to analyze untested rape kits in evidence statewide;
- \$288 million in bonds to move the Department of Health and Human Services offices out of Dix Park and to expand a state lab for more water and air quality testing;
- \$15 million to Medicaid to expand treatment options for opioid abuse; and
- \$1 million grants towards local food banks.

The Governor’s budget also calls for eliminating the State Capital and Infrastructure Fund (SCIF), which lawmakers set up several years ago to receive 4 percent of state revenue annually and a quarter of any budget surpluses. Instead, Cooper's budget calls for directing \$50 million cash into a



APARTMENT ASSOCIATION OF NORTH CAROLINA



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

FOR MORE INFORMATION:

Colleen Kochanek
Alexander C. Miller
P.O. Box 1038
Wake Forest, NC 27588
919.747.9988
colleen@kochaneklawgroup.com
alex@alexmillernc.com
www.kochaneklawgroup.com

repair and renovation reserve and \$200 million into the Capital Improvements Project Reserve. Other construction needs, including public schools and universities, would be funded by a \$3.9 billion bond measure that would require voter approval, as well as \$288 million in limited obligation bonds.

Republican leaders were quick to dismiss the proposal. "This is not a serious budget proposal. It is a political document that seems designed to cater to the governor's tax-and-spend base that put us in a hole 10 years ago," Senate Appropriations Committee co-chairs Harry Brown, Kathy Harrington, and Brent Jackson said in a joint statement. "Governor Cooper seems to want our children to pay for his reckless spending habits." "I invite the governor to submit a revised proposal to the General Assembly that shows he is as serious about balancing budgets as North Carolina families and businesses have to be, instead of using his recommendations as a political game," Senior House Appropriations Committee Co-Chairman Jason Saine, said in a statement.

The Governor stopped short of saying he would sign a budget only if it contains Medicaid expansion, his #1 policy priority this session, but he did suggest the issue could keep session going far beyond the late June or early July adjournments of the past few years. "There are some issues that are critically important to our state and Medicaid is one of them," he said. "So we're going to have to be here a long time to make sure that happens."

In addition to the release of the Governor's budget, committees are meeting in full force with a full slate of hearings every day and bills now moving through the process.

BILLS OF INTEREST

HOUSE BILL 265, Amend House Permanent Rules – April Meeting, would amend the 2019 House Permanent Rules to provide that no House votes may be held other than votes on motions to approve the journal and to adjourn, and that no standing committee or permanent subcommittee may meet on April 18 through April 24, 2019 (was, April 22 through April 26). **Introduced by and referred to the House Rules Committee.**

HOUSE BILL 268, Disapprove Certain Onsite Wastewater Rules, would disapprove certain wastewater treatment and dispersal rules adopted by the North Carolina Commission for Public Health. **Introduced by Representatives Brody and Wray and referred to the House Regulatory Reform Committee.**

HOUSE BILL 271, NC Adopt Equal Rights Amendment, would ratify the Equal Rights Amendment to the United States Constitution relating to equal rights for men and women. **Introduced by Representatives Cunningham, Fisher, Terry, and von Haefen and referred to the House Judiciary Committee.**

HOUSE BILL 277, Small Business Income Tax Relief, would allow an income tax deduction in an amount not to exceed \$50,000 of net business income the taxpayer receives during the taxable year if the taxpayer is a small business (a business whose annual receipts, combined with the annual receipts of all related persons, for the taxable year did not exceed \$1 million). For a married couple filing a joint return where both spouses receive or incur net business income, the maximum dollar amounts would apply separately to each spouse's net business income, not to exceed a total of \$100,000. "Business income" would not include income that is considered passive income under the Internal Revenue Code. **Introduced by Representatives K. Hall, Saine, Barnes, and Henson and referred to the House Commerce Committee.**

HOUSE BILL 279, Additional Judge in District 23, would increase the number of district court judges from four to five in District 23 and require that one of those five judges must reside in Ashe County, one in Yadkin County, and three in Wilkes County. Would also appropriate from the General Fund to the Administrative Office of the Courts \$109,223 for 2020-2021 and \$198,599 for 2021-2022. **Introduced by Reps. Zachary and Stevens and referred to the Committee on Appropriations, Justice and Public Safety, if favorable, Appropriations, if favorable, House Rules Committee.**

HOUSE BILL 284, Expunction Law Revisions, would:

- change current law concerning the expunction of nonviolent misdemeanors and felonies;
- change the provisions for the expunction of a nonviolent misdemeanor or nonviolent felony conviction by reducing the waiting period to file the petition at the later of five years after the date of conviction or when an active sentence, period of probation, and post-release supervision has been served, rather than ten years after the date of a nonviolent felony conviction and five years following a nonviolent misdemeanor conviction;
- modify the statute to provide for the expunction of a violent misdemeanor or violent felony conviction, allowing filing of the petition at the later of eight years after the date of the conviction or when an active sentence, period of probation, and post-release supervision has been served;
- define *violent felony* and *violent misdemeanor* to mean any misdemeanor or felony that is not covered by the current statute's definition for *nonviolent misdemeanor* or *nonviolent felony*;
- expand the petition criteria to include petitions for violent misdemeanors and violent felony convictions;
- add additional provisions to the treatment of multiple violent felony and violent misdemeanor convictions or multiple violent and nonviolent felonies or misdemeanors in the same court session; and
- make conforming and clarifying changes to the required filings before entry of an expunction order and to prosecutor access to expunged files.

Introduced by Reps. Alexander, Hunter, Harrison, and Logan and referred to the House Judiciary Committee, if favorable, Finance, if favorable, Rules, Calendar, and Operations of the House.

HOUSE BILL 287, Repeal G.S. 1-113, would repeal GS 1-113 (Defendants jointly or severally liable), which provides actions a plaintiff may take when an action involves two or more defendants and the summons is served on one or more but not all of the defendants. **Introduced by Representative Zachary and referred to the House Judiciary Committee.**

HOUSE BILL 293, Amend Funeral Procession Law, would amend laws regarding funeral provisions to:

- provide that a funeral procession has the right-of-way at intersections regardless of traffic control signs or signals, except that the operator of any vehicle in a funeral procession would be required to yield the right-of-way to law enforcement vehicles, fire protection vehicles, rescue vehicles, ambulances, and other emergency vehicles giving appropriate warning signals by light or siren and when directed to do so by a law enforcement officer;
- require the lead vehicle in a funeral procession to be registered with the DMV, if not using a law enforcement vehicle; and
- provide immunity to the funeral director or funeral establishment for any death, personal injury, or property damage caused by the action or inaction of a person operating a vehicle in a funeral procession, as specified.

Introduced by Representatives Alexander, Hunter, and Boles and referred to the House Transportation Committee.

HOUSE BILL 294, Partisan Elections Act, would require that every election in the State be held as a partisan election. **Introduced by Representatives Pittman, Cleveland, Kidwell, and Speciale and referred to the House Elections and Ethics Law Committee.**

HOUSE BILL 311, Greensboro/Real Property Conveyances, would:

- authorize the city of Greensboro to convey real property owned by the municipality for the purpose of increasing the supply of affordable housing for low- and moderate-income persons; provided no property acquired by the exercise of eminent domain may be conveyed under this authorization;
- allow the deed conveying the property to contain a restriction which provides that the property shall revert to the municipality if it ceases to be used for increasing the supply of affordable housing for low- and moderate-income persons prior to the expiration of any time period for such use required by the governing body;
- require that the conveyance of the property be made according to a resolution adopted by the governing body at a regular or special meeting authorizing the appropriate municipal official to make the conveyance for the purpose of increasing the supply of affordable housing for low- and moderate-income persons; and
- require the resolution to be posted on the municipality's web site at least 10 calendar days prior to the date the conveyance is executed by the appropriate municipal official.

Introduced by Reps. Quick, Clemmons, Harrison, and Hardister, and referred to the House State and Local Government Committee.

HOUSE BILL 312, Hate Crimes Prevention Act, would include a variety of provisions regarding hate crimes to:

- expand the categories under which a crime will be elevated to a higher level offense as a hate crime to include crimes committed because of the victim's ethnicity, gender, gender identity, gender expression, disability, or sexual orientation. Class 2 or Class 3 misdemeanors committed for these reasons would be elevated to a Class 1 misdemeanor, and Class A1 or Class 1 misdemeanors committed for these reasons would be elevated to a Class H felony;
- allow the victim of a hate crime or an immediate family member of the victim to obtain appropriate relief from the offender in a civil action, including actual damages (including damages for emotional distress, punitive damages, reasonable attorneys' fees, and any other litigation costs reasonably incurred);
- expand the definition of an *aggravating factor* to include to the above definition of hate crime;
- define *gender identity* as actual or perceived gender-related characteristics;
- create the crime *felonious assault as a hate crime*, defined as assaulting or attempting to assault a person and inflicting serious bodily injury because of the actual or perceived race, ethnicity, color, religion, nationality, country of origin, gender, gender identity, gender expression, disability, or sexual orientation of that person. It would be punishable as a Class F felony, elevated to a Class E felony if death results from the offense, or the offense includes the commission or attempted commission of kidnapping, first- or second-degree forcible rape, or first- or second-degree forcible sexual offense. The bill would prohibit the introduction of substantive evidence of expressions or associations of the accused at trial unless the evidence specifically relates to the crime charged under this statute, and would allow the victim of a hate crime or the victim's family to seek civil damages;
- direct the State Bureau of Investigation (SBI) to collect, analyze, and disseminate information regarding the commission of offenses punishable as hate crimes, including the total number of offenses committed for each type, identifying characteristics of the offender and victim from each offense, and the disposition of each offense. All State and local law enforcement agencies would report monthly to the SBI on offenses committed in their jurisdictions that meet the criteria for a hate crime. The SBI would report to the General Assembly on a yearly basis on the information gathered, publish the report on its website, and share any information collected

under this section upon request of any local law enforcement agency, unit of local government, or State agency;

- provide \$1.89 million to the SBI to cover any costs incurred in establishing the hate crime statistics database, and \$530,000 in each of the next two years to the SBI to hire an additional employee to manage the database;
- require the North Carolina Justice Academy and the Criminal Justice Training Standards Commission to develop and provide training to law enforcement officers on how to identify, respond to, and report hate crimes; and
- require the North Carolina Conference of District Attorneys to develop and provide training to prosecutors on prosecuting hate crimes.

Introduced by Representatives Majeed, Harrison, Meyer, and Martin and referred to the House Judiciary Committee.

HOUSE BILL 314, Const. Amendment/Repeal Literacy Test, would amend the State Constitution, if approved by a majority of voters of the State at the statewide general election to be held on November 3, 2020, to repeal the requirement that every person presenting himself for registration must be able to read and write any section of the Constitution in the English language. **Introduced by Representatives Alexander, Stevens, Speciale, and Pierce and referred to the House Rules Committee.**

HOUSE BILL 317, Additional Magistrates in Mecklenburg County, would change current law to add five additional magistrate positions in Mecklenburg County and would appropriate \$338,015 for 2019-2020 and \$322,875 for 2020-21 from the General Fund to the Administrative Office of the Courts. **Introduced by Reps. Logan, Belk, and Clark, and referred to the House Judiciary Committee.**

SENATE BILL 184, NC Adopt Equal Rights Amendment, is substantially similar to House Bill 271, summarized above in this Legislative Report. **Introduced by Senators McKissick, Van Duyn, and Smith and referred to the Senate Rules Committee.**

SENATE BILL 192, School Security Act of 2019, would:

- create the position of teacher resource officer, which would be defined as a person who meets all of the following criteria:
 - is employed by a public education entity
 - spends at least 70% of his or her work time providing classroom instruction;
 - is a certified sworn law enforcement officer;
 - was selected by the employing public education entity as qualified to pursue certification; and
 - has not received a notice of elimination of duties in the past 30 or more days;
- allow law enforcement agencies to obtain certification for candidate teacher resource officers;
- establish the candidate Teacher Resource Officer Grant Program;
- provide supplemental pay to teacher resource officers;
- encourage private schools to coordinate with local law enforcement agencies to adopt school risk management plans;
- **allow certain employees and volunteers at private schools to carry certain weapons on educational property when authorized by the school board of trustees or school administrative director;** and
- allow a person who has a concealed handgun permit to carry certain weapons on educational property that is the location of both a school and a place of religious worship when the person is attending worship services and other sacerdotal functions at the place of religious worship as long as students are not attending class.

Introduced by Senators Daniel, Hise, and Tillman and referred to the Senate Rules Committee.

SENATE BILL 202, DMV/High-Risk Driving Behaviors, would direct the Division of Motor Vehicles, in consultation with the Department of Public Safety, to develop a program to educate the public on the following high-risk driving behaviors: (1) dangers of texting while driving; (2) requirements of the Move Over Law; and (3) speed limits and other restrictions in school and construction zones. The Division also would: engage in public outreach efforts to inform as many people as possible about high-risk driving behaviors; incorporate testing on high-risk driving behaviors into the Division's written, traffic sign, and driving skills tests; and report on these efforts to the chairs of the Joint Legislative Transportation Oversight Committee and the Joint Legislative Oversight Committee on Justice and Public Safety by December 1, 2019. **Introduced by Senators Britt, McInnis, and McKissick and referred to the Senate Rules Committee.**

SENATE BILL 208, Remove Size Restrictions/Certain Polit. Signs, would remove size restrictions on political signs that are placed (i) on private property with the permission of the property owner and (ii) outside of any State or municipal right-of-way. **Introduced by Senators McInnis, Daniel, and Hise and referred to the Senate Rules Committee.**

SENATE BILL 209, Hate Crimes Prevention Act, is identical to House Bill 312, summarized above in this Legislative Report. **Introduced by Senators Chaudhuri, Foushee, and Mohammed and referred to the Senate Rules Committee.**

SENATE BILL 210, Organ & Tissue Donation/Heart Heroes, is identical to House Bill 126, summarized in the February 27, 2019, Legislative Report. **Introduced by Senators Krawiec, McKissick, and Horner and referred to the Senate Rules Committee.**

BILL UPDATES

HOUSE BILL 104, Litter Definition Clarification, was heard in the Committee on State and Local Government as a Proposed Committee Substitute (PCS, a new version). The PCS would further change the current law concerning littering offenses by making an exception from the littering prohibition for accidental blowing, scattering, or spilling of an insignificant amount of municipal solid waste or yard waste (first edition did not include yard waste) on private or public property during the automated loading or unloading (unloading was not included in the first edition) of a vehicle designed to transport municipal waste or yard waste if the vehicle is operated in a reasonable manner and operating according to manufacturer specifications. **The bill was approved by the House State and Local Government Committee and re-referred to the House Transportation Committee.**

SENATE BILL 86, Small Business Healthcare Act, was amended in the Senate Health Care Committee to:

- require a MEWA (Multiple Employer Welfare Arrangements) to be established by a group of employers under an association (1) having a constitution and bylaws, (2) organized and maintained in good faith for a continuous period of at least two years (previously, for a continuous period of two years for purposes other than that of obtaining or providing insurance), and (3) with at least one substantial business purpose unrelated to offering and providing health coverage or other employee benefits to its employer members and their employees;
- require the MEWA to have at least 500 covered lives;
- provide that a newly created association is deemed to have been organized and maintained for as long as its newest constituent association has been in existence as applicable to MEWA licensure qualifications;
- amend provisions regarding requirements for group accident and health insurance policies and contracts to specify that, as used in the provisions concerning premium payment under a policy

issued to an employer or to the trustee of a fund established by an employer or two or more employers in the same industry or kind of business whereby the employer is the policyholder and the policy covers employees or agents for amounts of insurance based on a plan, *employer* includes a MEWA that is classified by the US Department of Labor as a bona fide group or association under either the specified section of the Employee Retirement Income Security Act or any US Department of Labor advisory opinion;

- require, for a policy issued to an association or to a trust or trustees of a fund established, created, or maintained for the benefit of members of one or more associations, the association to have 500 persons at the outset, have been organized and maintained in good faith for purposes other than obtaining insurance, and have been in active existence for at least two years (currently, at least five years);
- remove the language from the term *employer* which defined the term to include only employers of two or more employees;
- prohibit insurers from providing stop loss, catastrophic, or reinsurance coverage to small employers who employ fewer than 12 eligible employees (currently, fewer than 26 eligible employees) that does not comply with the underwriting, rating, and other applicable standards of the Small Employer Group Health Coverage Reform Act.

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

- Colleen Kochanek
AANC Legislative Counsel
919.274.0982
colleen@kochaneklawgroup.com
www.kochaneklawgroup.comⁱ

Alexander C. Miller, MSW
Alex Miller Government Affairs
919.619.3360
alex@alexmillernc.com

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