



North Carolina Spirits Association

Legislative Report
November 19, 2021

We will not publish a Legislative Report on November 26, 2021 – The next
Legislative Report will be published on December 3, 2021

The State of North Carolina will have a new budget for the first time since 2018. This week the legislature passed a state budget bill, and Governor Cooper signed it into law on Thursday. The Senate approved the state budget bill 40-8, and the House approved it 104-10. Governor Cooper announced Tuesday that he would sign the budget, will cleared the way for many Democrats to vote for the budget.

The state budget will provide an average of 5% raises for teachers and state employees over the next two years, income-tax cuts, increases in education spending, and raises the minimum wage for non-certified school employees to \$15 per hour within two years. The state budget spends \$25.9 billion in the current fiscal year, which already started July 1, and \$27 billion in the 2022-2023 year. The Rainy Day Fund balance will have \$4.25 billion by the end of next year.

The budget contains tax cuts for individuals and corporations. The state budget eliminates the corporate income tax – but not until after 2029. The more immediate tax change for businesses in the budget bill affects the calculation for franchise tax payments, and reduces the franchise taxes on certain businesses by about 25%, but the majority of businesses would not see a change. Current law requires companies to calculate three different formulas – known as “bases” – and pay taxes on whichever of the three amounts is largest. The bill provides that every company will use the same formula: \$1.50 for every \$1,000 of the company’s net worth in North Carolina. The vast majority of companies already use that formula. Those that do not typically have major real-estate and equipment assets in North Carolina, which triggers one of the other calculations and a higher tax bill. Under the budget, the corporate income tax rate would drop from 2.5% to 2.25% in 2025, 2% in 2026, 1% in 2028 and then go to zero “after 2029.” The delayed start until 2025 means future lawmakers will handle the budget implications of the tax cuts. The final budget would allow tax deductions for businesses that received Paycheck Protection Program loans, which totals approximately \$427 million.

Here's a more specific list of budget provisions:

- 5% average raise over two years for public school teachers and state employees.
- 5% state and teacher retiree cost-of-living bonuses over two years.
- \$1,000 bonuses for all state employees (including teachers).
- Additional \$500 for all state employees (including teachers) making less than \$75,000 as well as correctional workers.

- Additional \$1,000 bonuses for teachers.
- Additional teacher supplemental assistance allotments for teachers in 95 counties (not Buncombe, Durham, Guilford, Mecklenburg and Wake), ranging from \$490 to \$4,250 per state-funded teacher.
- Cuts personal income tax from 5.25% to 3.99% over six years, including cutting to 4.99% beginning Jan. 1.
- Increases zero-tax bracket — the amount of income on which people pay no income tax — to \$12,750 or \$25,500 for married couples, up from \$10,750 and \$21,500.
- Increases child tax deduction by \$500 per child.
- Eliminates state income tax on military pensions.
- Phases out the corporate income tax beginning in 2025, reaching zero by the end of the decade.
- Provides \$15-per-hour minimum wage for all local employees of public schools and community colleges beginning in 2022-23.
- Provides \$1 billion for broadband expansion.
- Extends Medicaid eligibility for pregnant women with incomes equal to or less than 196% of the federal poverty guidelines for 12 months postpartum.
- Allows a parent to retain Medicaid eligibility while their child is temporarily in foster care. Directs the state health department to seek approval from the federal government to implement it.
- \$5.9 billion to build, repair and renovate state, university and other capital assets, including \$878 million in capital projects for state agencies, \$1 billion in capital projects for the UNC System and \$400 million in capital projects for community colleges.
- Takes away the ability of state agencies and the attorney general's office to settle lawsuits in certain cases and gives that power to the legislature instead. This stems from a settlement in a lawsuit before the 2020 election. Lawmakers passed a similar bill earlier in the session, but it was vetoed by Cooper.
- Sets new limits on the governor's ability to extend a statewide emergency past 30 days. It would require a vote by the Council of State to extend the state of emergency beyond 30 days and action by the legislature to extend it beyond 60 days.
- Provides \$46 million for infrastructure at motorsports facilities, including \$9 million for Rockingham Speedway, \$18 million for North Wilkesboro Speedway and \$13 million for Concord for projects connected to Charlotte Motor Speedway.
- Allows out-of-state athletes to be considered in-state residents for tuition purposes, a proposal that passed the state House in 2019.
- Sets the state's Savings Reserve (often known as rainy day fund) at \$4.25 billion at the end of the 2022-2023 fiscal year.
- Creates a 2022 joint legislative study committee on health care access and Medicaid expansion
- Expands eligibility for the Opportunity Scholarship Program.
- Creates a \$500 million fund to disperse one-time grants to businesses impacted by the COVID-19 pandemic in the hospitality and entertainment sectors with priority to businesses who have not previously received an award.
- Provides \$650,000 to North Carolina Freedom Park, the sculpture park being built between the Legislative Building and the Governor's Mansion in downtown Raleigh to celebrate the African American experience in North Carolina.

- Funds hundreds of local projects at museums, laboratories, National Guard facilities, universities and community colleges, local courthouses, dams, hospitals, historic sites, small airports, athletic facilities at schools, trails, skate parks and parks across the state.
- Provides \$10 million for esports facilities at N.C. State University, including \$6 million for construction of an esports facility and \$4 million for a new esports mobile arena truck. Also includes \$2.4 million for the creation of an esports facility at UNC-Greensboro and \$5 million in a fund to encourage esports events to be held in the state.

The House and Senate adjourned on Friday and will reconvene on Monday November 15 for a non-voting session. The next voting sessions will be during the week of November 29.

BILL STATUS

Senate Bill 470, ABC Technical and Other Changes, was considered in the House ABC Committee on Wednesday. Originally the committee was going to hear from the ABC Commission and LB&B regarding warehouse and delivery issues. However, LB&B personnel were not available to attend the meeting, so this topic was postponed and will be examined at a future meeting.

Instead the committee replaced the contents of Senate Bill 470 and included a number of technical and clarifying changes, many of which amended provisions enacted a month or so ago in House Bill 890, ABC Omnibus Legislation (Session Law 2021-150). The provisions of Senate Bill 470 include:

- Section 1 clarifies ABC rulemaking authority with respect to online orders at ABC stores and delays the effective date of the online order section in S.L. 2021-150 (H890) to January 1, 2022.
- Section 2 would clarify personalized labeling allowed on bottles of spirituous liquor sold at a distillery.
- Section 3 would make a technical change to the spirituous liquor vendor permit established in S.L. 2021- 150 to reflect that a nonresident spirituous liquor vendor may only sell its products in this State through the State warehouse.
- Section 4 would make a definition of "brokerage" apply to all of Chapter 18B of the General Statutes.
- Section 5 would make a conforming change to clarify that a spirituous liquor special event permit does not allow the sale of spirituous liquor in closed containers.
- Section 6 would make a clarifying change to the locations in which alcoholic beverages sold at distilleries for consumption on the premises may be sold, possessed, or consumed on any part of the licensed premises that is open to the public.
- Section 7 would make a technical change to the election changes in S.L. 2021-150 and provide that approval of mixed beverages allow allows the sale of fortified wine in addition to malt beverages and unfortified wine.
- Section 8 would make technical changes to the social district provisions enacted in S.L. 2021-150, allow wine shop permittees to participate in a social district, and clarify that indoor areas of non-ABC permittee businesses may be part of a social district if they

allow guests to consume alcoholic beverages on their premises while the social district is active.

- Section 9 would make a clarifying change and would direct a business that opts to expand its licensed premises for the outdoor possession and consumption of alcoholic beverages to submit a diagram of the expanded premises to the ABC Commission, in addition to the ALE Division and local law enforcement.
- Section 10 would exclude ice cream from the definition of "alcohol consumable" until December 1, 2022, to allow the ABC Commission an opportunity to determine how a frozen product will be received by the state warehouse, stored, shipped to ABC stores, and sold frozen in ABC stores. This section is effective retroactively to September 10, 2021, the date that S.L. 2021- 150 was signed into law.
- Section 11 would make a clarifying change to the conditions under which a tour boat may obtain an ABC permit.
- Section 12 would direct the Department of Public Safety to adopt rules consistent with the provisions of S.L. 2021-150.
- Section 13 would provide that the term "supplier," for purposes of a supplier's financial interest in a wholesaler, means a manufacturer, bottler, importer, or owner of one or more brands of malt beverages, unfortified wine, or fortified wine distributed by its wholesaler. The term would not include a wholesaler that (i) possesses a wine importer permit or a malt beverages importer permit or (ii) is an importer in another state, provided such malt beverages, unfortified wine, or fortified wine are transferred to it through an unaffiliated and independent third party.
- Section 14 would exempt the ABC Commission from rulemaking under the Administrative Procedure Act (APA) with respect to approval of alcoholic beverages to be sold in ABC stores and setting prices of alcoholic beverages.
- Section 15 would allow the ABC Commission to conduct training classes for individuals delivering under a delivery service permit. Under current law, the Commission approves courses conducted by the holder of a delivery service permit. This section would become effective December 1, 2021, and would apply to individuals successfully completing a course conducted or approved by the Commission related to the delivery of alcoholic beverages on or after that date.

The committee approved the bill on Wednesday. On Thursday, the full House approved the bill by a vote of 104 to 6 and sent it to the Senate to consider the House changes to the bill.

For more information about legislation described in the legislative reports, feel free to contact us at mfrazier@nexsenpruet.com or dferrell@nexsenpruet.com, or at (919) 573-7421. Information is also available on the General Assembly's website: www.ncleg.gov.

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