

The Capital Report

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This Week in Raleigh

North Carolina House budget writers are rapidly moving forward with plans to present their chamber's recommendations to tweak the state's \$22 billion budget.

House and Senate leaders agreed to a spending increase of 2.3 percent. Gov. Pat McCrory's recommended budget suggests spending 2.8 percent more for state government programs and services.

Major parts of the budget were released this week in subcommittee meetings with no substantive amendments and little criticism from Democrats.

Unlike last year when the governor and legislative leaders engaged in a budget standoff for months, mounting, national pressure over the fate of HB 2 and a pending ruling on the state's congressional district lines could result in all sides coming to a quick budget compromise.

There were no major surprises in the House budget recommendations. Gov. Pat McCrory got much of what he wanted, especially in the area of Health and Human Services.

House budget writers agreed to spending \$30 million to implement recommendations from the Governor's Task Force on Mental Health and Substance Use, which include money to improve transitional housing, case management, mental health first aid training, and child crisis centers, as well as creating tools to combat addiction.

The House budget also includes the governor's recommendations to earmark up to \$25 million from the Dorothea Dix Hospital Property Fund to conduct a pilot program to assist rural hospitals in the conversion of existing, unused acute care beds into licensed, short-term inpatient behavioral health beds.

An additional \$2 million from the Dix Fund would be allocated to local management entities/managed care organizations (LME/MCOs) to increase the number of facility-based crisis centers in catchment areas with the highest need, giving special priority to facility-based crisis centers for children and adolescents in high-need areas of the state.

Other budget items included:

- Providing \$1.2 million to upgrade and improve the state's Medicaid data analytics and an additional \$1.9 million to create a pilot project.
- Allocate \$30 million to partially restore single-stream funding to LME/MCOs.
- Designate \$8.5 million to implement the Child Welfare Federal Improvement Plan.
- Providing more than \$700,000 to improve the availability of localized, mobile training for county child welfare workers.
- Studying the rate-setting process for child care subsidies.
- Developing a statewide strategic plan for Child Protective Services that complements the Child Welfare Federal Improvement Plan.

K-12 Public Education

House budget writers want to increase K-12 public education spending by more than \$12.9 million.

Nevertheless, they differed with the governor slightly in some areas of the public education budget. For example, House budget writers preferred to forego hiring more first-grade teachers and using that money to hire more literacy coaches in the early grades.

House Republicans also swapped out the governor's plans to spend additional lottery proceeds for new education initiatives, favoring hiring more non-instructional staff.

A proposal to increase teacher pay is expected to be announced on Tuesday at the full House

Appropriations Committee. Other House education budget highlights include:

- Student population increase for 2016-17: \$46.8 million
- Performance bonuses for AP/IB teachers: \$4.3 million
- Performance bonuses for CTE teachers: \$600,000
- Instructional supplies increased by \$5 million nonrecurring
- Digital Learning Plan implementation: \$9.4 million nonrecurring
- Textbooks and digital materials: \$11.6 million nonrecurring
- Cooperative and Innovative High Schools: \$29.7 million
- Elimination of the scheduled class-size reduction for 1st grade in 2016-2017
- Funding for summer reading camps for 1st and 2nd graders would be reduced by 50 percent and become nonrecurring.

The House budget in its entirety will be released Tuesday, with a goal of passing it out of the chamber and on to the Senate by the end of next week.

House Bill 2

The now, epic battle between North Carolina lawmakers and the Obama administration over transgendered rights reached a boiling point this week.

North Carolina leaders and the Obama administration sued and counter-sued each other on Monday over whether transgendered persons can use public bathrooms of the gender with which they identify instead of the gender assigned at birth.

Filing in the state's Eastern District, Gov. Pat McCrory said the Justice Department made a "radical reinterpretation" of the Civil Rights Act by requiring the state to allow transgender people to use restrooms of their choice.

Senate President Phil Berger and House Speaker Tim Moore filed a separate suit, seeking a judicial ruling that the law doesn't violate the Civil Rights Act. All three leaders are Republicans.

The lawsuits were in response to the Justice Department giving McCrory until Monday to say he wouldn't enforce the law or risk losing more than \$2 billion in federal money for roads and schools because the Justice Department said HB 2 violated nondiscrimination provisions in

federal laws.

In its lawsuit, U.S. Attorney General Loretta Lynch said House Bill 2 amounted to “state-sponsored discrimination” aimed at a “problem that doesn’t exist.”

The Obama Administration capped off the week on Friday by issuing a directive that all public schools must allow transgender students to use bathrooms and locker-rooms consistent with their chosen gender identity.

According to WRAL News, a Raleigh television news station, reporting on the story:

“The guidance from leaders at the departments of Education and Justice says public schools are obligated to treat transgender students in a way that matches their gender identity, even if their education records or identity documents indicate a different sex.

‘There is no room in our schools for discrimination of any kind, including discrimination against transgender students on the basis of their sex,’ Attorney General Loretta Lynch said in a statement accompanying the directive, which is being sent to school districts Friday.

Justice Department officials told reporters that the directive letter had been in the works for months. But now it has direct implications for North Carolina’s law.

Gov. McCrory said the Administration’s stance ran counter to the expectation of privacy and gender etiquette. As he did when filing a lawsuit against the Justice Department, McCrory called on the courts to clarify the matter. According to WRAL:

“Both non-discrimination and privacy are basic tenets of our great country,’ McCrory said in a statement. ‘States and local governments cannot have a myriad of different laws which cause confusion and inconsistent application. However, the executive branch of the federal government does not have the authority to be the final arbiter. We all must work together to seek answers and common sense clarification.’”

A judge could begin hearing arguments on the competing cases within weeks. Some experts say the legal clash between the state and federal government could be one headed for the U.S. Supreme Court.

HB-2 Related

The ripple effects of the fight between North Carolina lawmakers and the federal government over HB 2 has spilled over into other parts of the state and the nation.

The Insider, a state government news service, reported on and compiled media reports related to HB 2. They include:

Compromise: While Charlotte Mayor Jennifer Roberts has taken a hard-line stance against the law, four City Council members have bypassed her and started their own negotiations with legislative leaders on a possible deal to end the controversy. Republican council member Ed Driggs organized on Tuesday a trip to Raleigh to meet with Moore and Berger. He invited the council's other Republican, Kenny Smith, and two Democrats: Vi Lyles, the mayor pro tem, and James Mitchell. "Some of us question whether the cost is commensurate with the problem we are trying to solve," Driggs said.

Family Lawsuit: A nonprofit representing unidentified public school students and parents filed a court action Tuesday seeking to prevent federal education funds from being withheld because of HB2. North Carolinians for Privacy wants a judge to declare that the U.S. Department of Education and the U.S. Department of Justice cannot unilaterally determine that sex discrimination prohibitions in federal civil rights laws cover transgender people. "The administration shouldn't condition the ability of women to receive an education on their willingness to shower with members of the opposite sex," Jeremy Tedesco, senior counsel for Alliance Defending Freedom, which is representing the families, said in a statement.

Economic Impact: HB2 could cost the state almost \$5 billion a year, according to a report Wednesday from the Williams Institute, a UCLA School of Law think tank that focuses on sexual orientation and gender identity law and public policy. Most of the economic hit would come from the loss of federal funding. The report also took into account the loss of business investment, reduced travel and tourism, the costs of litigation and enforcement, as well as costs associated with high school dropouts, workplace discrimination, health disparities, productivity loss, retention and recruitment. The report estimates that HB2 affects 336,000 LGBT individuals statewide. The McCrory administration rejected the report's findings as a "left-wing," smear campaign.

New Campaign: LGBT advocates are taking their campaign over transgender rights up a notch, by pressuring the hundreds of businesses that have declared opposition to HB2 to pledge transgender people will not be hurt or harassed by other customers on their property. The Charlotte-based Freedom Center for Social Justice says the "Yes, You Can Go!" campaign is pushing companies to be more public in their opposition to HB2.

Virginia Case: Legal analysts said a Virginia case could suggest a tough legal road ahead for HB2 advocates. In April, the 4th U.S. Circuit Court of Appeals issued an order in the case of a Virginia transgender teen who sued his school district over a bathroom ban.

That case has implications for North Carolina because it is one of the states that falls within the 4th Circuit. In that order, which sent the case back to a lower court for further deliberation, the three-judge panel sided with the federal Education Department's interpretation that Title IX, the section of federal law that prohibits gender discrimination and harassment in schools, protects the rights of students to use the bathroom that corresponds with their gender identity.

UNC Response: UNC system President Margaret Spellings said the university is 'truly caught in the middle' as the federal government and state elected leaders launched legal battles over the bathroom law on Monday.

Spellings responded to the U.S. Department of Justice late Monday with a letter saying the university is committed to complying with federal non-discrimination laws. She asked for more dialogue with federal officials to resolve concerns over the law known as HB2...

Spellings' letter sought to walk a fine line -- assuring federal officials that the UNC system intends to follow federal law, while not refusing to follow HB2. The university had until Monday to respond to the federal government's threat to withhold federal funding because of the law, which it says discriminates against transgender people. In 2014-15, the UNC system received \$1.4 billion in federal funds. The UNC Board of Governors has scheduled a special meeting Tuesday for a legal briefing from its chief counsel. (Jane Stancill, The News & Observer)

Cooper Video: Attorney General Roy Cooper says Gov. Pat McCrory "is pouring gas on the fire that he lit" when he signed a state law limiting LGBT anti-discrimination protections.

In a video, Cooper said McCrory is putting billions of dollars in federal funds at risk by suing Monday the U.S. Justice Department. Cooper already has refused to defend the law in court, calling it discriminatory and an embarrassment to North Carolina, and wants it repealed. McCrory and his campaign have criticized Cooper for failing to do his job as attorney general. The campaign between McCrory and Cooper is expected to be one of the most competitive and expensive races this year. (The Associated Press)

California Vote: California's lower legislative chamber on Monday passed a bill to require single-person public restrooms to be gender neutral. California Assemblyman Phil Ting of San Francisco aims to help transgender people, caregivers and parents with AB1732. The bill asks inspectors and officials who enforce building code to check restroom signs for compliance. (The Associated Press)

Ripped from the headlines

The following news stories captured this week the headlines in and around the Raleigh beltline.

Hospital Transparency

Hospitals would have to provide more transparency of charity-care policies, making that information more accessible on their websites, if a bill introduced this week in the state Senate becomes law.

Richard Craver of the *Winston-Salem Journal* reported:

“Senate Bill 825 would require not-for-profit hospitals and health care systems to directly report key fiscal financial information annually to the Department of Health and Human Services, rather than just provide a link to their federal 990 tax forms.

To earn their breaks on federal and state income taxes, state sales taxes, and city and county property taxes, not-for-profit hospitals are required to provide community benefits. A major component of community benefits is charity care -- financial assistance to low-income uninsured people, as well as non-reimbursed costs for Medicaid and other government programs.

The bill is sponsored by Sens. Bob Rucho, R-Mecklenburg, and Andy Wells, R-Catawba.

‘The goal of this bill is to make it easier for the public to find hospitals' charity care policies because oftentimes it is hard, if not impossible, to find,’ Wells said.

Besides charity care qualifications, the bill would require annual disclosure of patient revenue totals, operating income and expenses, bad debt and capital investments.

DHHS would make the information available to the public through links to individual hospitals and systems that ‘would be easy for the public to read,’ Wells said.

The N.C. Hospital Association said members have "made community benefit information and hospital financial aid policies available on our website (www.ncha.org/healthcare-topics/community-benefit) since 2007.”

Legislative compensation increases

North Carolina lawmakers may take on an unpopular issue during the short session – increasing their compensation rates.

The Joint Legislative Program Evaluation Oversight Committee approved this week a proposal to increase the legislative per-diem from \$104 to \$163 a day, mileage from 29 to 52 cents and retaining the base pay for rank-and-file lawmakers to \$13,951.

North Carolina lawmakers have not received a compensation increase in two decades and are among the lowest-paid in the nation and lag significantly behind inflation, according to an analysis from the National Council of State Legislatures.

According to Dan Boylan, who reported on the issue for the Insider, a state government news service:

“Committee member Rep. Becky Carney, D-Mecklenburg, who has served in the House seven terms, addressed the political sensitivities.

‘I've been here 14 years and every time it comes up, for pay increase, it goes nowhere,’ she said, adding that the public harbors misperceptions about legislative salaries and thinks lawmakers

‘make \$100,000 a year.’

In 2015, the legislative session ran for eight months, from January into late September. Legislators on average took home about \$48,000 each in total pay. They don't typically make that much when sessions are shorter.”

Despite the political untimeliness of the idea, the time could be right to increase lawmakers’ compensation, some say. Low-pay and lengthy legislative sessions were contributing factors in the decisions of the more than 20 state lawmakers who resigned or decided not to seek re-election.

“...Rep. Craig Horn, R-Union, said Monday's proposal had taken time to craft but the issue was urgent.

‘Just like with teachers, the state is having a hard time attracting quality new people to the legislature. They just can't afford it. At these salaries, people ask: 'How can I do this?’”

It is uncertain whether the proposal will gain traction this year.

Senate Rules Chairman Sen. Tom Apodaca, a Hendersonville Republican who lives 275 miles from the legislature, told reporters Senate leadership is considering the idea.

House leaders were more cautious, saying they preferred the issue be deferred to a Blue Ribbon Commission of people who aren’t currently serving in elected office -- past legislators, a past governor and members of the public.

Novant Lawsuit Settlement

A federal judge approved Wednesday a \$32 million settlement involving Novant Health Inc. and a class-action lawsuit targeting its defined-compensation retirement plan, according to Richard Craver of the *Winston Salem Journal*.

He reported: “Judge William Osteen Jr., of the Middle District Court of N.C., also approved a joint motion to certify the class. A fairness hearing will be Sept. 23.

About \$10.67 million goes to attorney fees. Each of the six named plaintiffs receive \$25,000. The

remaining money will be distributed among the class.

The lawsuit was filed March 12, 2014, by six current and former employees.

The complaint accuses Novant of breaching fiduciary duties by causing plan participants to pay millions of dollars in fees for excessive record-keeping and administrative services to third-party service providers Great West Life & Annuity Insurance Co. and D.L. Davis & Co. of Winston-Salem.

According to the plaintiffs' law firm of Schlichter, Bogard & Denton, there are about 25,000 affected Novant employees.”

NC Pre-K Enrollment Declining

Lynn Bonner of the Raleigh *News & Observer* reporting on a report on early childhood education released this week that found that enrollment for NC Pre-K was stagnant even while the state’s program for 4-year-olds maintained last year its high quality.

Bonner wrote:

“NC Pre-K met all 10 standards for high quality established by the National Institute for Early Education Research at Rutgers University.

About 27,000 4-year-olds were enrolled in NC Pre-K in 2014-15, about 234 more than the previous year, according to the report.

The state continued to rank 24th nationally in student access. It ranked 20th in state spending and 11th in total spending. The state House this week passed a bill requiring the Department of Health and Human Services to study the cost of pre-K slots.”

McGrady seeks to re-constitute the Coal Ash Management Commission

In response to a NC Supreme Court decision on commission appointments, Rep. Chuck McGrady, R-Henderson, announced his intention to file legislation that will re-create the Coal Ash Management Commission.

The state Supreme Court declared the former commission unconstitutional because of how it was formed.

According to Rep. McGrady's press release on the matter:

"The NC Department of Environmental Quality (DEQ) has responsibility for making recommendations to the Commission as to how coal ash is disposed. The Coal Ash Management Commission would make the final decisions on how coal ash basins throughout the state would ultimately be remediated.

'The Coal Ash Management Commission is needed to review the recommendations of DEQ,' McGrady said. 'The legislature wanted an independent body to consider DEQ's decisions on which coal ash ponds must be cleaned up first and how they would be cleaned up. I am working closely with Senate leadership to move the legislation in advance of DEQ issuing its initial decisions so the newly reconstituted Commission will have the ability to review them.'

The proposed legislation will likely address similar appointment issues for two other state commissions noted in the NC Supreme Court decision."

North Carolina's Republican National Convention Delegation

If Texas Sen. Ted Cruz remained in the GOP presidential race until its convention in July in Cleveland, Ohio, he would have had North Carolina's vote.

According to a story from Colin Campbell of the *Raleigh News & Observer*:

"North Carolina Republicans on Saturday selected their 72 delegates to the party's national convention in Cleveland, and the majority were supporters of Texas Sen. Ted Cruz.

That would have given Cruz an advantage in a contested convention, but since he and Ohio Gov. John Kasich dropped out, Donald Trump will win on the first ballot.

The 'unity slate' of delegates approved by party leaders with the blessing of the presidential campaigns includes 21 Trump supporters, 38 Cruz supporters, two Kasich supporters, four Marco Rubio supporters and one Ben Carson supporter. Others elected didn't list a candidate preference.

Among the notable delegates selected Saturday: former N.C. Supreme Court Justice Bob Orr for Kasich, U.S. Sen. Thom Tillis for Rubio, N.C. Rep. Mike Hager for Trump, N.C. Sen. Ronald Rabin

for Trump, U.S. Rep. Robert Pittenger for Trump and N.C. Rep. Pat Hurley for Trump. House Speaker Tim Moore will serve as the state's lone Carson delegate. N.C. Sen. John Alexander of Raleigh will attend the convention as an alternate for Trump.”

Western North Carolina courthouse bomb threats

The Associated Press picked up on the *Asheville Citizen-Times* story about a string of bomb threats targeting courthouses in Jackson and Swain counties and the Cherokee Tribal Courts.

According to the Associated Press:

“Authorities say three courthouses in Western North Carolina have received bomb threats. The *Asheville Citizen-Times* reports Jackson County received a 911 call Thursday from an unknown caller who said there was a bomb at the Jackson County Courthouse, the Cherokee Tribal Courts or the Swain County Courthouse.

The caller said the bomb was in place and set to go off within the next 72 hours, and authorities would have to figure out where it was. Deputies, emergency management, fire departments and EMS spent the day combing through the courthouses with bomb-sniffing dogs. All three buildings were evacuated and remained closed for the rest of the day.”

Moving Forward

The House Appropriations Committee is expected to take up their 2016 Budget recommendations on Tuesday, May 17 at 9:30am. It is anticipated that the committee will take most of the day with several amendments being considered. The House intends on sending their spending plan to the Senate by the end of the week.

A full budget summary will be provided as soon as it becomes available.

The Policy Group is a full service lobbying firm located in Raleigh, NC and is led by Company President , Steve Metcalf and Senior Policy Advisors, John Metcalf and Chris Wall.

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