

INTRODUCTION

After a drawn-out debate and several bills filed, Democratic Governor Roy Cooper and leaders of the Republican-led House and Senate have reached an agreement on a bill that will allow schools to reopen for daily, in-person instruction. The bill quickly passed through both chambers and was signed into law by the Governor last week, and has been commended by both sides of the aisle as a great bipartisan effort to help our state's students.

The Senate used an already-filed bill on CPR graduation requirements, Senate Bill 220, as the vehicle to put the school reopening language in by removing the original text of the bill. This "gut and amend" approach, where legislators take an existing bill and change its content to a new bill, is a way to speed up the legislative process and will be seen more and more as we get further into session.

The bill will require elementary schools to operate full-time and in-person under Plan A, which does not require 6 feet of social distancing like Plan B. Middle schools and high schools would have the option to open under Plan A or Plan B. Now that it has been signed into law, schools have a maximum of 21 days to reopen. Gov. Cooper anticipates all schools will be open by the first of April, following spring break.

"This is good news a lot of parents have been waiting to hear around this state for months and that is the children of this state are going back to school," House Speaker Tim Moore said at the press conference. "This compromise bill represents an opportunity for Democrats and Republicans to all agree on a process moving forward."

COVID-19 Relief Bill

The General Assembly's latest COVID-19 bill has been signed into law. House Bill 196 is a \$1.7 billion-dollar package, spending federal COVID-19 money and making some COVID-related policy changes like extending virtual options for services like notarization. It includes \$600 million for COVID-19 testing and related needs, as well as \$390 million for K-12 and higher education as they look towards safely reopening. Although the bill passed with unanimous support, there were some procedural concerns expressed by members, as well as some who said the bill should do more.

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NORTH CAROLINA COLLEGE OF EMERGENCY PHYSICIANS



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Governor Cooper and the 2022 Senate Race

Governor Cooper has confirmed that he will not be throwing his hat in the ring for the open U.S. Senate seat in 2022. "I promised four years as Governor, and that's what I will do," Gov. Cooper told reporters earlier this week. Although he believes he would win, Gov. Cooper explained that he was not interested in handing off North Carolina's governorship to Republican Lieutenant Governor Mark Robinson and will fulfill his four years as this state's Governor.

Congressional Term Limits

It is rare that you'll see a bill supported by the Speaker that doesn't have enough votes to fly through both chambers, but that is perhaps the case with House Joint Resolution 172, Term Limits for Congress. Speaker Tim Moore pulled his own bill off of the calendar and re-referred it to the Rules Committee over concerns that there wasn't enough support to get the bill through the chamber.

This bill would attempt to make history by enacting term limits for Congress by including North Carolina as part of the two/thirds of states needed in order to call a Convention of the States to revise the U.S. Constitution. "It's going to be really close on the votes right now, it could go either way," Moore said. This matter will likely be further debated within the Republican caucus before we see it move on the legislative calendar again.

Limiting Governor's Emergency Powers

Although some reopening bills attempted to restrain Gov. Cooper's emergency powers in this past summer's short session, House Bill 264 takes another crack at it. The bill, titled the "Emergency Powers Accountability Act," would require the Governor to seek concurrence from the Council of State on any statewide emergency declaration that lasts beyond thirty days. House Majority Leader Rep. John Bell emphasized that this bill is not about reopening or masks. Rather, this bill is about not giving one person unilateral control of the state. "We need buy-in from folks" when making statewide decisions, Rules Chairman Rep. Destin Hall said.

The Council of State consists of six Republicans and four Democrats. Some executive orders already require concurrence from the Council of State, but the contentious executive orders to limit or close some businesses were passed without a concurring majority and there is disagreement over whether a concurrence vote was needed.

Local Bill Loophole

The General Assembly has various bills running right now that would go against Gov. Cooper's Executive Orders. Many have been sports-related and would allow spectators at various sporting events with specific guidelines. The House has passed two bills that would expand the number of fans allowed at sporting events during the pandemic. House Bill 118 would allow more than a dozen counties to allow 50% capacity at sporting events held outdoors. Democratic members questioned if this local bill was constitutional, as it deals with public health, but Speaker Moore

disagreed. Speaker Moore argued that the bill does not go against the constitution. Instead, it addresses Executive Orders from the Governor under the Emergency Powers Law. Local bills, unlike statewide bills, cannot be vetoed by the Governor. With Republican majorities in both chambers, local bills could be an opportunity for Republicans to sidestep the Governor's Executive Orders.

BILLS OF INTEREST

<u>HOUSE BILL 254</u>, <u>Const. Amend./Concealed Carry</u>, would amend the State Constitution, if approved by a majority of the qualified voters of the State at the general election in 2022, to make it a right for any citizen who has not been indicted or convicted of a violent crime to carry any legal weapon for self-defense, either openly or concealed, with or without a permit, except on public or private property that is legally posted against it. The bill would provide that, while a system of concealed carry permits would be maintained for purposes of reciprocity with other States and ease of purchasing weapons, no law-abiding citizen would be required to obtain such a permit to carry a concealed weapon. **Introduced by Representatives Pittman and Kidwell and referred to the House Judiciary 2 Committee.**

<u>HOUSE BILL 259</u>, <u>Protect Voting Systems/Foreign Interference</u>, would direct the State Board of Elections, subject to any applicable federal law or regulations governing voting systems, to require all voting systems used for elections in this State, including any software used for those voting systems, to be manufactured in the United States of America by United States–owned companies. **Introduced by Representatives Kidwell, K. Hall, McNeely, and Cleveland and referred to the House Judiciary I Committee.**

<u>HOUSE BILL 262, Smart Start Funds</u>, would appropriate \$30 million in recurring funds for each year of the 2021-23 fiscal biennium to the North Carolina Partnership for Children, Inc., (Smart Start) for distribution to Smart Start local partnerships. Requires that the funds be used to provide additional funding for the following Smart Start activities or initiatives: (1) \$15 million for child care–related activities; (2) \$7.5 million for family support activities; (3) \$3.75 million for health-related activities; and (4) \$3.75 million for child care subsidy. Introduced by Representatives Lambeth, White, Potts, and Adcock and referred to the House Appropriations Committee.

<u>HOUSE BILL 264, Emergency Powers Accountability Act</u>, would provide for the expiration of a gubernatorially or legislatively declared state of emergency applicable to a statewide emergency area seven days after issuance without concurrence of the Council of State. The bill would allow for a 30-day extension with concurrence of the Council of State, and prohibit the Governor from issuing or extending a declaration applicable to a statewide emergency area the same or substantially similar to that which failed concurrence of the Council of State based on the same emergency. Introduced by Representatives Kidwell, D. Hall, Bell, and Moffitt and referred to the House Judiciary I Committee.

<u>HOUSE BILL 271</u>, <u>Eminent Domain</u>, would amend the State Constitution, if approved by a majority of the qualified voters of the State at the general election in 2022, to prohibit condemnation of private property except for a public use and provide for the payment of just compensation with right of trial by jury in all condemnation cases. The bill also would amend the list of private condemnors permitted to exercise the power of eminent domain to include corporations, bodies politic, or persons exercising eminent domain for communication facilities, facilities related to the distribution of natural gas, and pipelines or mains for the transportation of

natural gas. Introduced by Representatives Riddell, Arp, Tyson, and Brody and referred to the House Judiciary I Committee.

HOUSE BILL 272, Revise Health Standards for Lead, would modify the definition of lead poisoning hazard to include any concentration of lead in drinking water equal to or greater than 10 parts per billion. The bill would require that remediation plans reduce the lead poisoning hazards to fewer than 10 parts per billion for lead in drinking water. Introduced by Representatives Warren, Lambeth, Adcock, and Potts and referred to the House Environment Committee.

HOUSE BILL 277, The SAVE Act, would establish qualifications and procedures for licensure of an advanced practice registered nurse (APRN). Specifically, the bill would:

- define advanced practice registered nurse or APRN as an individual licensed by the North Carolina Board of Nursing as an advanced practice registered nurse within one of the following four roles: (1) nurse practitioner or NP, (2) certified nurse midwife or CNM, (3) clinical nurse specialist or CNS, or (4) certified registered nurse anesthetist or CRNA;
- require the Board to issue an APRN license to any person recognized by the Board as an APRN or approved to practice as an APRN in the state on December 31, 2021;
- establish that the practice of nursing by an APRN does not constitute practicing medicine or surgery;
- repeal the statute that places limitations on nurse practitioners;
- establish that a certified registered anesthetist administering anesthetic does not constitute practicing dentistry;
- empower the Board to grant prescribing, ordering, dispensing, and furnishing authority to holders of the advanced practice registered nurses license;
- repeal the Midwifery Practice Act;
- require the Governor to submit an opt-out letter to the Centers for Medicare and Medicaid Services within 30 days of the date the section becomes law, requesting an exemption that allows hospitals, ambulatory surgical centers, critical access hospitals, and rural hospitals in the state the maximum flexibility to obtain Medicare reimbursement for anesthesia services in a manner that best serves each facility and its patients and community; and
- direct the Board, the NC Medical Board, and the State Board of Dental Examiners to adopt implementing rules.

Introduced by Representatives White, Adcock, Cunningham, and Wheatley and referred to the House Health Committee.

HOUSE BILL 279, 2021 Revenue Laws Changes, would make various changes to the State's revenue laws, including provisions to:

- modify the allowable itemized deduction an individual may elect to deduct from their gross income for mortgage expense and property tax, and prohibit the amount allowed as a deduction for interest paid or accrued during the taxable year under the Code with respect to any qualified residence from including the amount for mortgage insurance premiums treated as qualified residence interest for taxable years 2014 through 2021 (currently limited to taxable years 2014 through 2020);
- modify the required adjustments to an individual's gross income, which are decoupled from federal requirements to: require the taxpayer to add the amounts excluded from the taxpayer's gross income for the discharge of qualified principal residence indebtedness and qualified tuition and related expenses under the Code for taxable years 2014 through 2025 (currently limited to taxable years 2014 through 2020); require the taxpayer to add the amounts excluded from the taxpayer's gross income for payment by an employer of principal or interest on any qualified education loan incurred by the taxpayer for education

of the taxpayer for taxable years 2020 through 2020 (currently limited to taxable year 2020); require a taxpayer to add an amount equal to the amount which the taxpayer's deduction under of the specified section of the Code, regarding business-related expenses for food and beverages provided by a restaurant, exceeds the deduction that would have been allowed under the Code enacted as of May 1, 2020;

- deem Extra Credit Grants and COVID-19 Recovery Rebates, as defined, not to be considered income for purposes of determining a person's eligibility under the elderly or disabled property tax homestead exclusion;
- extend the sunset for the personal income tax deduction for amounts granted to the individual under the Extra Credit Grant program, now setting the provision to expire on January 1, 2022, rather than January 1, 2021;
- amend the provisions regarding exceptions to the statute of limitations for individual tax refunds to provide that the period to request a refund of individual overpayment is six months after the end of an event that a taxpayer claims prevents the taxpayer from filing an accurate and definite request within the statutory period, and require rather than permit the taxpayer to submit a written request to the Secretary seeking an extension prior to the statute of limitations.

Introduced by Representative Howard and referred to the House Finance Committee.

<u>HOUSE BILL 280, Mental Health Facility/Western NC/Funds</u>, would appropriate \$50 million for the planning and construction of a new mental health care facility in either Cherokee, Clay, Graham, Haywood, Jackson, Macon, or Swain County. **Introduced by Representatives Clampitt and Pless and referred to the House Appropriations Committee.**

HOUSE JOINT RESOLUTION 286, Urge Congress/Propose "Keep Nine" Amendment, would urge Congress to propose the following "Keep Nine Amendment" to the United States Constitution: "The Supreme Court of the United States shall be composed of nine Justices." Introduced by Representative Penny and referred to the House Federal Relations and American Indian Affairs Committee.

<u>HOUSE BILL 290, Make Certain Drug Offenses Infractions</u>, would make (1) possession of marijuana drug paraphernalia an infraction rather than a Class 3 misdemeanor and (2) possession of a controlled substance classified in Schedule VI (marijuana and tetrahydrocannabinols) an infraction, rather than a Class 3 or Class 1 misdemeanor based on quantity. The bill would not change the current law that provides that if the quantity possessed exceeds one and one-half ounces of marijuana or three-twentieths of an ounce of hashish, or any quantity of synthetic tetrahydrocannabinols or tetrahydrocannabinols isolated from the resin of marijuana, the offense is punishable as a Class I felony. Introduced by Introduced by Representative Alexander and referred to the House Rules Committee.

<u>SENATE BILL 191</u>, <u>The No Patient Left Alone Act</u>, would ensure that patients in hospitals, nursing homes and other facilities have the right to have visitors even during declared disasters or emergencies. **Introduced by Senators Daniel, Krawiec, and Britt and referred to the Senate Rules Committee.**

SENATE BILL 200, CPS Intake Screening/PED Study, would:

• prohibit a county department of social services from supplementing child protective services intake screening criteria with county policy that is more stringent than, or in addition to, State policy;

- require the Division of Social Services to implement a rapid consultation system to assist counties when making decisions regarding the safety of children;
- require the Division to periodically assess county department of social services workers' and supervisors' comprehension and implementation of State policy and their training needs regarding the screening of reports of alleged child maltreatment;
- require the Division to: (1) increase the frequency of intake training; (2) develop an intermediate intake screening course that bridges the gap between newer and more experienced workers; and (3) require county social services workers and supervisors to complete an intake screening training at least every three years;
- require the Division to consult with the Children's Research Center or a similar organization, in revising the child protective services structured intake form;
- require the intake form to be recertified every five years and requires consultation with the Children's Research Center or a similar organization when State policy changes require modifications to the form;
- require the Division to implement statistically valid program monitoring for county intake screening procedures and establish measurable performance benchmarks; and
- require county data reviews for intake screening to be performed at least annually beginning no later than December 31, 2024.

Introduced by Senators Edwards, Ford, and Burgin and referred to the Senate Rules Committee.

<u>SENATE BILL 202, No Lapse, No Problem</u>, would require the Division of Motor Vehicles (DMV) to review its records and confirm whether a lapse in financial responsibility has occurred when it receives evidence that the owner of a motor vehicle registered or required to be registered in this state does not have financial responsibility for the operation of the vehicle. Notification to the owner would be required only when the review indicates that there is a lapse and could be provided by mail or electronically. Evidence showing that a lapse did not occur would include proof of continuous financial responsibility or a form indicating transfer of title by or surrender of title to salvage vehicles before the termination of the liability policy. **Introduced by Senators Sawyer and Johnson and referred to the Senate Commerce and Insurance Committee.**

<u>SENATE BILL 208</u>, <u>Labor Law Changes</u>, would authorize the Director of Occupational Safety and Health to obtain medical records compiled and maintained by the Department of Health and Human Services by hospitals participating in the statewide trauma system, or by emergency management service providers in connection with the dispatch, response, treatment, or transport of individual patients relating to investigations and enforcement proceedings under the Occupational Safety and Health Act. Medical records obtained by the Department would be strictly confidential, not public records, and could not be released or made public. **Introduced by Senators Hise, Galey, and Woodard and referred to the Senate Rules Committee.**

SENATE BILL 226, Amend HIE Mandatory Participation & Enforcement, would:

- make certain one-year extensions for mandatory connection to the Health Information Exchange (HIE) Network:
 - providers of Medicaid and State-funded health care services not otherwise provided for by October 1, 2022;
 - ambulatory surgical centers, licensed dentists, licensed physicians with a primary practice in psychiatry, and the State Lab of Public Health by June 1, 2022;
 - registered pharmacies, and state health care facilities under the Secretary of the Department of Health and Human Services' jurisdiction by June 1, 2022;

- require the HIE Network Authority to assess a civil penalty not exceeding \$10 per claim to any provider or entity that fails to connect to the HIE Network and submit required data through the HIE Network as mandated; and
- require the provider or entity to take one of four actions within 30 days of the assessment, including payment of the penalty in full, executing a participation agreement, requesting an exemption or hardship extension, or filing a contested case petition.

Introduced by Senators Krawiec, Burgin, and Perry and referred to the Senate Rules Committee.

SENATE BILL 228, Allow Employers to Offer EPO Benefit Plans, would provide for continuity of care for a patient receiving treatment for an ongoing special condition when his provider is removed from insurance due to a contract termination or an employer's change in benefit plans. The bill would require the insurer to notify the patient of the right to elect continuation of coverage of treatment by the provider during a transitional period. It would also define ongoing special condition to include specified acute illnesses, chronic illnesses, and terminal illnesses, and pregnancy from the start of the second trimester. The bill would allow the treating hospital care provider to determine the length of the transitional period, not exceeding 90 days after the date of the notice to the individual regarding termination of the provider or the date of enrollment in a new benefit plan. In addition, specified extensions of the transitional period would be provided for individuals who had scheduled or were on a waiting list to schedule surgery, organ transplantation, or inpatient care; individuals entering the second trimester of pregnancy; and individuals who are terminally ill. Introduced by Senators Edwards, Krawiec, and Burgin and referred to the Senate Rules Committee.

<u>SENATE BILL 238</u>, <u>Life & Property Protection Act</u>, would establish local governmental liability for damages, injury, or death occurring during public demonstrations. Specifically, the bill would:

- prohibit a governmental entity from intentionally prohibiting, preventing, or delaying law enforcement or fire and rescue services from accessing a specifically bounded area within the governmental entity's jurisdiction during a public demonstration unless the services are replaced by like services provided by another governmental entity;
- allow a governmental entity in violation to be held liable for damages, injury, or death proximately caused by the governmental entity intentionally prohibiting or preventing law enforcement or fire and rescue services from accessing a specifically bounded area within the governmental entity's jurisdiction during a public demonstration;
- define "governmental entity" as a mayor, chief executive officer, governing body, board, commission, committee, or department of a municipality, county, or other political subdivision of the State; and
- provide that these provisions do not apply to tactical decisions made by law enforcement or fire and rescue services personnel based on the risks to or safety of personnel or the public.

Introduced by Senators Johnson, McInnis, and Craven and referred to the Senate Rules Committee.

SENATE BILL 248, Dental Patient Transparency Act, would require an insurer offering a dental services benefit plan that provides a designation or rating system for dentists in the benefit plan network to utilize fair and accurate designations and mandates disclosure to consumers and dentists the basis for the designation, rating, or profile. The bill would also require an insurer to provide a mechanism for a dentist to challenge and correct any erroneous designation or any erroneous data or methodologies used for the designation or rating system. The bill would also change the law requiring insurers to provide members with identification cards, adding a new requirement for the

cards to contain an indication of whether the health benefit plan is a fully insured or self-funded plan, with plans fully-insured noted by using "NCDOI" to indicate to the consumer that the Department of Insurance is able to provide assistance regarding the regulation of the plan. Introduced by Senators Perry, Johnson, and Sawyer and referred to the Senate Rules Committee.

BILL UPDATES

<u>HOUSE BILL 48</u>, <u>Concealed Carry/Emergency Medical Personnel</u>, was amended on the House floor to exempt only emergency medical services personnel while on duty who are deployed as part of their official duties providing tactical medical assistance to a law enforcement SWAT team in an emergency situation. The bill as amended was approved by the full House and will next be considered by the Senate Rules Committee.

<u>HOUSE BILL 93</u>, <u>Require Naloxone Scripts with Opioid Scripts</u>, was amended in the House Insurance Committee to exclude veterinarians, animal hospitals, and veterinary practices from the proposed requirement for practitioners prescribing opioids to also prescribe Naloxone. The bill as amended was approved by the House Insurance Committee and will next be heard by the House Health Committee. The North Carolina College of Emergency Physicians is opposed to this legislation.

HOUSE BILL 134, 2nd Amendment Protection Act, was amended in the House Rules Committee as follows:

- changes the proposed exception for concealed carry permit holders and others exempt from obtaining a permit from the prohibition against carrying weapons on campus and other education property also used as a place of worship;
- specifies that property owned by a local board of education or county commission is not a building that is a place of worship, as the term is used to condition the exception to carrying on education property that is the location of both a school and a building that is a place of worship; and
- defines school operating hours to be time when (1) the premises are being used for curricular or extracurricular activities; (2) the premises are being used for educational, instructional, or school-sponsored activities; or (3) the premises are being used for programs for minors by entities not affiliated with the religious institution.

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

<u>HOUSE BILL 144</u>, <u>Teledentistry/RDH Admin. Local Anesthetic</u>, was amended in the House Health Committee to add a new section expanding the conditions in which certain dental hygienists meeting specified experience requirements can perform dental hygiene functions without a licensed dentist physically present, to include performing dental hygiene services in schools. The bill as amended was approved by the House Health Committee and will next be considered by the House Insurance Committee.

LEGISLATION ENACTED

<u>SENATE BILL 220</u>, The Reopen Our Schools Act of 2021. This bill was originally filed on March 9th as a bill to temporarily extend CPR graduation requirement changes; however, the bill was amended in the Senate Education/Higher Education Committee to require all local school administrative units to provide in-person instruction to students in grades kindergarten through 12 for the remainder of the scheduled 2020-2021 school year, beginning no later than the first instructional day scheduled in the adopted school calendar that occurs 21 days following the effective date of this act. The bill:

- provides that in-person instruction includes all of the following components: (1) is offered to the student in person by a teacher of record on a local school administrative unit campus (continued enrollment in a North Carolina Virtual Public School course or other e-learning course offering or use of prerecorded learning materials integrated in instruction that occurs on a local school administrative unit campus is considered to meet this requirement); (2) meal service; and (3) transportation services to the campus where the student is assigned;
- details criteria for the provision of in-person instruction, including compliance with the Strong Schools NC Public Health Toolkit, as it existed on March 4, 2021, for implementation of Plan A (Minimal Social Distancing) and Plan B (Moderate Social Distancing) as appropriate for reopening;
- requires instruction under Plan A to all students enrolled in grades K-5;
- requires instruction under Plan A or Plan B to all students enrolled in grades 6-12, at the discretion of the local board, except that local boards are required to offer instruction under Plan A to students with individualized education program (IEPs) or a section 504 plan at the discretion of the student's parent or guardian;
- requires prior notification of the Department of Health and Human Services and a description of a plan to move to Plan A by local boards to offer Plan A to students enrolled in grades 6-12;
- requires partnering with the ABC Science Collaborative of the School of Medicine at Duke to collect and analyze data from units for students in Plan A in grades 6-12, with contact tracing and reporting as specified;
- requires local boards continue to provide remote instruction options for all students to elect to participate in at the parent or guardian's discretion, and authorizes local boards to revise the 2020-21 school calendar to reschedule teacher workdays to be used to prepare for a return to Plan A instruction prior to the date in-person instruction is required;
- allows local boards flexibility in day-to-day shifts from in-person instruction to remote instruction due to COVID-19 exposures resulting in insufficient school personnel or required student quarantines, and requires a local board to report any shift by a school or classroom to remote instruction to the Department of Public Instruction (DPI) within 72 hours of the shift;
- requires DPI to contract with the ABC Collaborative within federal funds available to provide data collection, analysis and interpretation of COVID-19 related metrics of student, teacher, and staff safety for local units providing in-person instruction under Plan A for middle and high school students;
- authorizes the Governor to order, during the remainder of the 2020-21 school year, individual local school administrative units to close full-time in-person instruction and provide hybrid or remote learning options or to close, restrict, or reduce operations within schools of that unit by executive order stating the reasoning for requiring closure, restriction, or reduction in operation; and

• prohibits the Governor from issuing a statewide executive order for school closure, restriction, or reduction in operation, and prohibits the Governor from using any other authority to do so.

The bill as amended was approved by the Senate and the House and was signed into law by the Governor on March 11, 2021. <u>Effective</u>: March 11, 2021.

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