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Focusing on Legislative Representation

LEGISLATIVE REPORT
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INTRODUCTION

The General Assembly returned last week to continue its business for the 2020 short session. So far, several notable bills have moved through the legislature, including House Bill 536: Temporary Outdoor Restaurants for Outdoor Seating. This bill would allow private bars and clubs to reopen under specified conditions similar to restaurants currently, with outdoor seating capacity limited to the lesser of 50% of the establishment's indoor capacity, or 100 customers. House Bill 536 passed both chambers last Thursday, with a 42-5 vote in the Senate, and a 65-53 vote in the House after a contentious floor debate, which led to all but two Democrats voting against the bill. With the partisan split of this bill's support, it is likely that this bill could be the first veto of the 2020 short session by Democratic Governor Roy Cooper. In a news conference prior to the bill's passing, Gov. Cooper expressed his disagreement with the reopening of private bars and clubs now. "I believe there will be a time when we can open bars, but that time is not now," said Cooper. House minority leader Darren Jackson also has shared concerns on the bill, saying that if this bill were to become law, next week there would be a bill to reopen gyms ahead of the executive order, too. The bill has been presented to the Governor where it awaits his approval or veto.



**NORTH CAROLINA COLLEGE
OF EMERGENCY PHYSICIANS**



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BILLS OF INTEREST

HOUSE BILL 1169, Bipartisan Elections Act of 2020. This bill to make various changes to the laws related to elections and appropriate funds to the State Board of Elections in response to the coronavirus pandemic was filed on May 22, 2020. The bill was already heard and amended by the House Elections Law and Ethics Committee and the House Rules Committee and on the House floor. The bill as amended would:

- for the 2020 general election, allow for one witness for the casting of absentee ballots, provide flexibility in the filling of positions for precinct officials, provide for voter assistance by individuals working as part of multi-partisan teams, and allow for completed absentee request forms to be e-mailed or faxed to county boards of elections;
- require the Department of Health and Human Services (DHHS) and the State Board of Elections to develop guidance on how to safely allow multi-partisan teams to assist registered voters within a congregate living situation during the 2020 elections;
- require applications for absentee ballots to have a bar code allowing the county board of elections and the voter to track a voted ballot following its return to the county board;
- provide an additional two weeks for county boards of elections to approve applications for absentee ballots;
- clarify that voters may call the State Board or a county board of elections and request a blank absentee ballot request form be sent to the voter by mail, e-mail, or fax;
- provide that the State Board or its Executive Director cannot deliver absentee ballots to a voter who did not submit a valid request form or order an election using all mail-in absentee ballots;
- require the State Board to create an online portal for voters to submit online requests for absentee ballots by September 1, 2020;
- create a Class I felony for any member serving on or employed by the State Board or a county board of elections to knowingly send or deliver an unrequested absentee ballot.
- allow for special identification cards for nonoperators issued by the Division of Motor Vehicles (DMV) to be renewed online.
- allow for government-issued public assistance cards to be accepted for photo identification for voting identification; and
- appropriate funds to the State Board of Elections to respond to COVID-19.

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

HOUSE BILL 1175, 2020 Safe Drinking Water Act, would require the Commission for Public Health to: (1) establish maximum contaminant levels (MCLs) for probable or known carcinogens and other toxic chemicals that are likely to pose a substantial hazard to public health; and (2) review each year the latest peer-reviewed science and independent or government agency studies and undertake additional rule making, as necessary to establish or revise MCLs. The bill also would provide \$6 million to the Department of Health and Human Services to carry out these requirements. **Introduced by Representatives Clemmons, Meyer, Reives, and Batch and referred to the House Rules Committee.**

HOUSE BILL 1176, COVID-19/Create Temp. Jobs Statewide/Funds, would establish the Pandemic Safety and Temporary Jobs Fund to provide funding for the immediate creation of time-limited employment opportunities at public entities across North Carolina that will fund the hiring of employees whose services are substantially dedicated to mitigating or responding to the pandemic. The bill would provide \$500 million from the Fund to the Office of State Budget and Management (OSBM), and direct OSBM to allocate the funds as grants to specified public entities.

The grants would: (1) create jobs with compensation of at least \$25,000 a year for a time-limited period of 6-12 months with rate of pay at 80% of the average pay for the employer's same or similar jobs for full-time employees; (2) be available all 100 counties; (3) prioritize the unemployed or underemployed; (4) not displace or supplant current employees; and (5) create up to 20,000 participant jobs. **Introduced by Representatives Garrison and Willingham and referred to the House Rules Committee.**

HOUSE BILL 1184, Ensure Safer Voting for 2020 Elections, would make various changes to the laws pertaining to the 2020 General Election in response to the COVID-19 pandemic to: (1) extend the application deadline for voter registrations to 14 days before the election; (2) expand the options for submitting absentee ballot request forms to also allow requests by phone, fax, digitally through an online portal, or e-mail, in addition to in person, mail, or designated delivery service; (3) require all registered voters in this State to receive by mail a request form for an absentee ballot; (4) provide for flexibility in the certification requirement for absentee ballots; (5) require prepaid postage for voted absentee ballots; (6) direct the State Board of Elections to take all reasonable steps to cure an absentee ballot that is incomplete or illegible, when possible; (7) require contactless drop boxes and flexibility in early voting hours; (8) establish the 2020 election day as a paid state holiday; (9) prohibit the photo ID requirement for 2020 general election; and (10) allow voters to request curbside or drive-through voting. **Introduced by Representatives Morey, Hawkins, Autry, and Butler and referred to the House Rules Committee.**

HOUSE BILL 1191, ECU Brody School of Medicine Funds, would appropriate \$15 million for the planning of a new Brody School of Medicine at ECU. The bill also states legislative intent to transfer an additional \$13 million for the 2021-22 fiscal year for the construction of a new Brody School of Medicine at ECU, with the amount authorized for the project set at \$215 million. To receive the allocation, there must be an agreement between UNC or ECU and the primary affiliated teaching hospital for the Brody School that requires at least 45% of the members of the Board of Trustees of the primary affiliated teaching hospital to be appointed by the UNC Board of Governors. **Introduced by Reps. P. Jones, Moore, Bell and Humphrey and referred to the House Appropriations Committee.**

HOUSE BILL 1196, Funds/COVID-19 Tests & PPE for Congregate Lvg, would:

- require owners, managers and operators of congregate living settings to require all staff working on the same premises as residents to undergo COVID-19 testing at least once a week;
- define congregate living setting to include nursing homes and other residential care facilities, other than correctional facilities, designated as such by the Division of Health Service Regulation (DHSR);
- require DHSR to enforce the requirements and distribute sufficient tests and personal protective equipment, within available appropriations, to conduct weekly testing;
- appropriate \$12 million from the Coronavirus Relief Fund to DHSR to purchase and distribute specified COVID-19 testing and personal protective equipment free of charge to each applicable congregate living setting; and
- sunset the provisions on the date the Governor rescinds Executive Order No. 116.

Introduced by Reps. Richardson, Morey, Holley and Autry and referred to the House Appropriations Committee.

HOUSE BILL 1197, Appropriate HAVA & CARES Funds/2020 Elections, would provide almost \$11.7 million from federal Help America Vote Act (HAVA) funds and over \$2.3 million from the State General Fund to the State Board of Elections to: (1) enhance and upgrade voting equipment

and election auditing; (2) improve the voter registration system and management; (3) protect against cyber vulnerabilities; (4) provide training and communication; and (5) assist with providing personal protective equipment (PPE) and hiring temporary staff to process an increase in absentee ballot demands. The bill would also provide almost \$11 million from CARES Act funds and over \$2.1 million in State funds to the SBOE to: (1) increase the ability of voters to vote by mail or absentee ballot; (2) expand early voting and online voter registration; and (3) improve the safety of in-person voting by providing PPE and additional voting facilities and hiring additional poll workers. The SBOE would report on the use of these funds as specified by no later than February 28, 2021. **Introduced by Representatives Morey, Alston, Butler, and Insko and referred to the House Rules Committee.**

HOUSE BILL 1202, NCGA Transparency and Accessibility Act, would create a 15-member North Carolina General Assembly Technology Task Force to investigate the current status of information technology operations at the North Carolina General Assembly and ways to ensure the General Assembly runs seamlessly, whether under normal or exceptional circumstances such as a pandemic or weather-related event, and meaningful public participation for individuals with disabilities and those with limited connectivity. The Task Force would:

- study: (1) how other states have implemented meaningful public participation for individuals with disabilities and those with limited connectivity; (2) technology, including hardware and software, telephony, and other prerequisite infrastructure to enable legislators and staff to work efficiently and effectively, whether present on the Legislative Campus, teleworking, or some combination thereof; and (3) any other issues the Task Force deems relevant to its work;
- develop a five-year plan for the installation, deployment, and testing of all recommended technology, including cost estimates for implementation of the plan; and
- report its findings and recommendations to the Legislative Services Commission prior to the convening of the 2021 General Assembly

The bill would provide \$75,000 to the General Assembly to plan and deploy a one-year trial of closed captioning of legislative proceedings. **Introduced by Representatives Ball, John, and Lofton and referred to the House Appropriations Committee.**

HOUSE BILL 1204, Funds for Statewide Telepsychiatry Program, would appropriate \$3,423,000 to the Department of Health and Human Services, Office of Rural Health to be allocated to the ECU Center for Telepsychiatry and e-Behavioral Health for the 2020-21 fiscal year, for the statewide telepsychiatry program, NC-STeP. The bill would require \$3,243,000 to be allocated equally among 12 new NC-STeP program sites and \$180,000 to be used for operational expenses. **Introduced by Representatives P. Jones, Baker and Hanig and referred to the House Appropriations Committee.**

HOUSE BILL 1209, Permit Req'd/Assault Weapon & Long Gun, would require a permit for the purchase of an assault weapon or a long gun. The bill would:

- define an *assault weapon* as: (1) any selective-fire firearm capable of semiautomatic or burst fire at the option of the user; (2) 37 specified semiautomatic firearms; (3) 49 specified semiautomatic centerfire rifles, or copies or duplicates with the capabilities of the rifles; (4) 22 specified semiautomatic centerfire pistols, or copies or duplicates with the capabilities of the pistols; (5) all IZHMAISH Saiga 12 shotguns or copies or duplicates with the capabilities of the shotguns; and (6) all semiautomatic firearms that meet any of the eight specified criteria;
- define a *long gun* as a shotgun or rifle that is not considered an antique firearm or assault weapon; and

- provide \$10,000 to the Department of Public Safety to assist sheriffs in implementing these provisions.

Introduced by Representatives Clark, Morey, and Harrison and referred to the House Rules Committee.

HOUSE BILL 1214, Department of Health and Human Services Revisions, would:

- change the definition of developmental disability to include a severe, chronic disability of a person that is attributable to a mental or physical impairment or combination of mental and physical impairments;
- require the DHHS Secretary to adopt a co-payment schedule for behavioral health services, intellectual and developmental disabilities services, and substance abuse disorder services based on the Medicaid co-payments for the services, to be used by LMEs and the specified contractual provider agencies;
- specify that an appeal of a good cause waiver regarding licensure of facilities for the mentally ill, developmentally disabled, and substance abusers must be filed as a contested case under administrative hearings rules;
- authorize the Secretary to certify a licensed clinical mental health counselor to perform first examinations for involuntary commitment;
- allow for the use of telehealth equipment and procedures to conduct the first examination regarding involuntary commitment;
- direct the Secretary to convene a work group to evaluate the Brain Injury Advisory Council;
- authorize the Secretary to adjust the base budget allocations relative to single stream funding for LME/MCOs, beginning with the 2020-21 fiscal year;
- require DHHS to ensure that LME/MCOs use out-of-network agreements with single providers of behavioral health or intellectual and developmental disability services to ensure access to care required by federal law, effective until tailored plan coverage begins;
- require LME/MCOs to use out-of-network agreements when an enrollee is a foster child or independent foster care adolescent and receiving services from a provider that does not have a comprehensive provider contract with the LME/MCO;
- require LME/MCOs to use out-of-network agreements rather than a comprehensive provider contract when certain conditions are met; and
- appropriate \$17,696 in nonrecurring funds to support the Council on Developmental Disabilities.

Introduced by Representative Dobson and referred to the House Health Committee.

HOUSE BILL 1219, Collaboratory Funds/COVID-19 Economic Impacts, would provide \$10 million from the Coronavirus Relief Fund to the University of North Carolina at Chapel Hill for the North Carolina Policy Collaboratory. The funds would be used to carry out a statewide testing, tracking, and tracing initiative for COVID-19 to provide the necessary data for businesses across North Carolina to safely reopen and remain open in a manner that facilitates economic activity while, at the same time, protects the public health of the employees and customers of businesses in the State. The Collaboratory would:

- create an internet-based portal for businesses based in North Carolina with an interest in utilizing testing, tracking, and tracing initiatives to sign up as candidates for participation in the program;
- select a geographically balanced representation of businesses based on the economic tier of the county in which they operate and the State's economic opportunity zones;
- select a diverse sampling of businesses based on their sector including, agriculture, manufacturing, restaurants, lodging, retail, and entertainment;

- select technologies to be deployed in businesses to carry out an effective testing, tracking, and tracing program;
- collect, synthesize, analyze, visualize, and report data to show the efficacy of public health best practices in conjunction with businesses remaining open;
- engage in any other research or activity related to monitoring, assessing, or addressing the public health and economic impacts of COVID-19; and
- report on the progress of the use of the funds to the Joint Legislative Oversight Committee on Health and Human Services by no later than September 1, 2020.

Introduced by Representatives P. Jones and Baker and referred to the House Health Committee.

HOUSE BILL 1228, Satellite Broadband Grants, would establish a Satellite-Based Broadband Grant Fund at the Department of Information Technology to encourage the expansion of satellite-based broadband service to unserved portions of the State. **Introduced by Representatives Saine, B. Jones, Wray, and Szoka and referred to the House Appropriations Committee.**

HOUSE BILL 1229, UI Program Integrity/Temp. ABAWD Time Waivers, would provide \$2 million to the Department of Commerce, Division of Employment Security (DES), to contract with the Government Data Analytics Center to: (1) enhance existing unemployment insurance (UI) fraud and compliance alerting capability to prevent and detect cybersecurity attacks on DES information technology assets and resources during the pandemic; (2) provide DES with COVID-19 related program fraud detection analytics and information reporting; (3) provide pandemic UI assistance documentation analysis; and (4) develop modeling for economic impact and recovery analysis. The bill also would allow the NC DHHS to seek a temporary waiver from the US Department of Agriculture for time limits established by federal law for able-bodied adults without dependents participating in the Food and Nutrition Services Program in this State, and provide \$25,000 to the Division of Social Services to cover increased administrative costs for the Food and Nutrition Services Program. **Introduced by Representatives Howard, Wray, and Saine and referred to the House Appropriations Committee.**

SENATE BILL 834, Close the Medicaid Coverage Gap/Funds, would: (1) repeal the statute that prohibits any State entity from expanding Medicaid eligibility; (2) provide criteria for those individuals who are considered part of the Medicaid coverage gap and eligible for Medicaid benefits through an Alternative Benefit Plan established by the Department of Health and Human Services; and (3) provide \$100,000 to the Department of Health and Human Services, Division of Health Benefits, for planning and preparation related to implementation of the Medicaid coverage. This is a modified version of Medicaid Expansion. **Introduced by Senators Robinson, Foushee, and Blue and referred to the Senate Rules Committee.**

SENATE BILL 837, PFAS Contamination Mitigation Measures, would direct the Department of Environmental Quality to implement measures to prevent and address contamination from the discharge of PFAS in the State in order to protect public health and study various issues related to PFAS. In addition, the bill would provide to the Department \$5 million for the Bernard Allen Drinking Water Fund to fund drinking water treatment systems for individuals, businesses, and community water systems with covered wells and \$1 million to develop a strategy to address persistent toxic chemicals in the State's environment. **Introduced by Representatives Harrison, Butler, Hunt, and Clark and referred to the House Environment Committee.**

SENATE BILL 839, PPE & Hazard Pay for Public School Employees, would provide to the Department of Public Instruction \$75 million to provide surgical and respiratory masks and gloves, which meet the federal standards and guidelines from the Centers for Disease Control and Prevention, for all identified public school employees; and \$70 million to provide a temporary salary supplement of \$5.00 per hour for all identified public school employees. *Identified public school employees* would include employees of the public schools, including teachers, instructional support personnel, principals, assistant principals, and noncertified personnel, except for central office employees. **Introduced by Senators Mohammed, Van Duyn, and Peterson and referred to the Senate Appropriations Committee.**

SENATE BILL 840, Allow Clerks to Hear Traffic Cases Virtually, would direct the Administrative Office of the Courts, in consultation with the North Carolina Conference of Clerks of Superior Court, to: (1) identify traffic offenses over which clerks of superior court may be given authority to preside; (2) grant authority to clerks of superior court to hold in-person and remote hearings involving the identified traffic offenses; and (3) provide software, laptops, and any other technological need to clerks of superior court to preside over remote proceedings in a manner that ensures the validity and integrity of the proceedings. The bill would provide \$50,000 to the Administrative Office of the Courts to implement these requirements. **Introduced by Senators Garrett and Robinson and referred to the Senate Rules Committee.**

SENATE BILL 843, Waive Road Test/DMV Expand Office Hours, would direct the Division of Motor Vehicles (DMV) to waive the requirement that an applicant pass a road test in order to obtain a Level 2 limited provisional license, if the applicant meets all other requirements to obtain the license. A Level 2 limited provisional license holder who receives the waiver would have to pass a road test administered by the DMV in order to obtain a Level 3 full provisional license. The bill also would provide \$200,000 to the DMV to establish and implement a pilot program to increase the operating hours of targeted, high-volume DMV offices to accommodate increased demands following closures and delays due to the COVID-19 crisis. **Introduced by Senators Brown, McInnis, and Perry and referred to the Senate Transportation Committee.**

SENATE BILL 846, Enact Naturopathic Doctors Licensure Act, would create licensure and education requirements for naturopathic doctors. Specifically, the bill would:

- prohibit a person from practicing as a naturopathic physician without a state license;
- define naturopathic medicine as a system of natural health care that employs diagnosis and treatment using natural therapies and diagnostic techniques and establish techniques that may and may not be used by naturopathic physicians;
- make violations a Class 1 misdemeanor;
- establish the NC Naturopathic Doctors Licensing Board (Board), with seven members (three appointed by the Governor and two each upon recommendation of the Speaker of the House of Representatives and the President Pro Tem. of the Senate, with each member having to come from specified groups) to be appointed by January 1, 2021;
- create a six-member Naturopathic Doctors Formulary Council to recommend to the Board, on an ongoing basis, a formulary for naturopathic doctors to use in practice.
- clarify that the practice of naturopathic medicine by a licensed naturopathic doctor does not constitute the practice of medicine or surgery; and
- authorize the Board to adopt rules to implement the provisions of this act.

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

SENATE BILL 861, Election Protection During COVID-19 Emergency, would seek to provide various forms of relief and flexibility to ensure proper safety for elections held in 2020 in response to the COVID-19 emergency and provide funding to the State Board of Elections to respond to the COVID-19 emergency for the 2020 federal election cycle. **Introduced by Senators Marcus, Chaudhuri, and Foushee and has not yet been assigned to a Senate committee.**

BILL UPDATES

HOUSE BILL 471, Exempt Direct Primary Care from DOI Regs, was heard in the Senate Health Care Committee, where a new version was approved. The new version would exclude medical direct primary care from regulation by the Department of Insurance. The bill would define medical direct primary care agreement to mean a contract in which the primary care provider agrees to provide services to an individual patient for a specified fee and specified period of time, without billing third parties or billing on a fee-for-service basis. It would explicitly state that primary care providers and their agents are not required to be licensed or certified under NC Insurance Law with regards to medical direct primary care agreements. The bill would establish seven requirements of medical direct primary care agreements, including that the agreement be in writing, signed by the parties or their representatives, allow termination without notice by either party, specify the periodic fee and duration of the agreement, specify any automatic renewal periods, specify the primary care services included and covered and prominently state that the agreement is not health insurance. **The bill as amended was approved by the Senate Health Care Committee and will next be considered by the Senate Rules Committee.**

HOUSE BILL 536, Temp Outdoor Restaurants for Outdoor Seating, was amended on the Senate floor to authorize any private club or private bar, any winery issued a fortified or unfortified wine permit, or any distillery issued a distillery permit, to open and serve alcohol for on-premises consumption, if specific requirements and limitations are met. These would include that: (1) the establishment was in existence on March 10, 2020, is properly licensed and permitted, and holds all necessary State and local regulatory permits; (2) the service is limited to outdoor seating locations with the location owner's permission; and (3) the outdoor seating capacity is limited to 50% of the current indoor seating capacity of the establishment, or 100 customers, whichever is less. The bill also would provide that the outdoor seating area as authorized may not be prohibited by a municipality or county because the outdoor seating area is not a permitted use for operation of food and drink services under zoning ordinances. **The bill as amended was approved by the Senate and the House and has been sent to the Governor for his signature. The Governor has signaled his displeasure with the bill.**

HOUSE BILL 902, Temp Open Clubs & Similar Establish/Outdoor, was amended in the Senate Commerce and Insurance Committee to include the provisions listed in House Bill 536 to allow outdoor service for bars, wineries, and distilleries, as specified. **The bill as amended was approved by the Senate Commerce and Insurance and Rules Committees, but was sent back to the Senate Rules Committee for further consideration.**

SENATE BILL 739, Personal Delivery Device/PDD/Delivery Robots, was amended in the Senate Commerce and Insurance Committee to:

- amend the definition of a *personal delivery device* as “an electrically powered device intended for transporting cargo that is equipped with automated driving technology that enables device operation with or without the remote support and supervision of a human

and that does not exceed (i) a weight of 500 pounds, excluding cargo, (ii) a length of 40 inches, and (iii) a width of 30 inches”;

- allow a business entity to operate a PDD if the entity is authorized to conduct business in the State (was, if registered with the Secretary of State);
- specify that the PDD must be monitored by a human that is an agent of the business entity that is at least 16 years old and charged by the entity with the responsibility of monitoring and operating a PDD;
- require the PDD to be operated in a manner that complies with provisions applicable to bicycles when the device is operating on a highway or bicycle lane, in addition to those applicable to pedestrians when the device is operating in a pedestrian area, and change the maximum speeds permitted for PDD operation from 12 to 10 mph in pedestrian areas, and from 20 to 35 mph on highways;
- remove the prohibition against local government regulation of the hours and areas of operation of a PDD inconsistent with the Article, and instead allow local governments to reasonably regulate PDD operation on a highway or pedestrian area for reasons relating to public health, safety, or welfare, subject to an opportunity from business entities, but would explicitly bar local governments' outright ban of PDD operation; and
- provide that the immunity from liability does not apply in instances of gross negligence.

The bill as amended was approved by the Senate Commerce and Insurance Committee and will next be considered by the Senate Transportation Committee.

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