



INTRODUCTION

HOUSE BUDGET PASSES HOUSE

After a long week of committee debate, amendments galore, and hours of fiery floor speeches on both Wednesday and Thursday last week, the House has passed their version of the budget, 72-41. Senate Bill 105, 2021 Appropriations Act, will now go over to the Senate where the bill will receive a nonconcurrency vote. From there, conferees from both chambers will be appointed and work on the final proposed budget will begin. Republican leadership has promised there will be trilateral negotiations in preparing the final version between the Republican-led House and Senate, and our Democratic Governor. This was in response to House Democrats, who were clear this week that they needed a seat at the table in crafting the budget if Republicans expect their support.

That said, nine Democrats did break with their caucus and voted in favor of the measure this week. Those Democrat ‘yes’ votes were: Reps. Cecil Brockman (Guilford), Brian Farkas (Pitt), Charles Graham (Robeson), Howard Hunter (Gates, Hertford, Pasquotank), Marvin Lucas (Cumberland), Garland Pierce (Hoke, Scotland), William Richardson (Cumberland), Shelly Willingham (Edgecombe, Martin), and Michael Wray (Halifax, Northampton). While the House budget passed with a veto-proof majority, there is no guarantee that this many Democrats, or any at all, will split from their caucus and vote to override if a final budget proposal is vetoed by Governor Cooper. That would be a first since the Governor has taken office, and there is immense pressure to pass a budget this year. The state has not had a comprehensive budget in over two fiscal years and would need one to spend billions of dollars in federal aid and an unprecedented state surplus of over \$6.5 billion.

With more money to spend than ever and various needs unmet by the 2018 budget our state continues to operate under, the heat is on to finally get a budget bill passed. Although some may see things differently, most agree that the budget is the most important legislation that they work on during session and not having a budget again would be a terrible failure by all concerned. Senate leader Berger would also like to see a budget, but has signaled he is okay with packing up and going



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home before agreeing to a budget that he perceives to be worse than the existing budget. This adds just another layer of complexity to the already complicated dynamic between the Republican-led chambers with different spending priorities and the Democratic Governor who has an entirely different viewpoint on spending and is unafraid of vetoing a bill. Please see the end of this legislative report for more specific items that are relevant to your group in the House budget.

REDISTRICTING / CENSUS DATA

On Thursday, the Census Bureau released the long-awaited data integral to the state's redistricting process. The 2020 Census revealed that North Carolina's population increased 9.5% in the last decade, and is now home to more than 10.4 million residents. North Carolina was ranked the 15th fastest growing state in the nation. Because of this growth, North Carolina will be gaining a 14th seat in the U.S. House of Representatives. Wake County saw a 25.4% increase since 2010 and now surpasses Mecklenburg County as the most populous county in our state with 1,129,410 residents. It's worth noting that Mecklenburg and Wake County both have over 1.1 million residents, and are over double the size of any other county in this state. The numbers showed that 78% of North Carolina's population growth occurred in the six-county region of the Triangle or the six-county region of Charlotte over the past decade.

The Joint Redistricting Committee officially adopted criteria for drawing legislative and congressional districts for the next decade. The committee made history by adopting redistricting criteria that will not use partisan data. The committee also opted to use several other traditional, non-partisan redistricting criteria like seeking to keep municipalities whole, avoiding splitting precincts, and keeping districts compact, to limit partisan considerations. "North Carolina has been the epicenter of redistricting lawsuits for decades," said Sen. Daniel, who co-chairs the Senate Redistricting Committee, in a statement. "It's time to put the last 30 years of litigation behind us and begin a new era of nonpartisan map drawing." Democratic committee members criticized the rules as too vague, and questioned if the maps using this criterion would hold up to legal challenges, which both sides fully expect.

The adopted criteria would forbid legislators from using past election results, party registration data, or data on race in the drawing of the new maps. Democrats pushed to use race data in at least a post-draw analysis, but came up short. They emphasized that just because racial data won't be loaded into the computer doesn't mean race and politics won't be considered in the redraw by the members who are intimately familiar with their districts and where their supporters live. "Just because you say you're not looking at it doesn't mean that you're not looking at it," Senate Democratic Leader Dan Blue said. Republicans maintained that the goal is to draw fair districts that comply with all state and federal laws, and court precedents laid out from previous litigation. They also reminded the committee that Democrats themselves praised this process when it was used in the 2019 redraw, and it has only improved from there. You can view the adopted criteria [here](#).

REP. JERRY CARTER

Rep. Jerry Carter, a veteran and longtime Baptist pastor, passed away recently from complications due to a rare gastrointestinal disease. Rep. Carter was serving his second term representing Rockingham County. He was well admired by members of the House, and will be missed. Speaker Moore said in a statement: "I am heartbroken and devastated by the sudden loss of my friend and colleague Representative Jerry Carter. Representative Carter was an extraordinary legislator and a devoted husband to his wife, who he loved dearly. He was the chaplain of the NC State Highway Patrol and was a man of deep faith and faithful prayer. He was the founder and pastor of Reidsville Baptist Church, and he was deeply passionate about serving Rockingham County and his

constituents back home. We will feel Jerry’s loss deeply at the NC General Assembly, and my prayers are with Jerry’s family as they grieve this great loss in the days ahead.” The Rockingham County GOP has appointed county commissioner and former chief of police Reece Pyrtle to serve the remainder of Rep. Carter’s term.

THIS WEEK AT THE LEGISLATURE

The General Assembly will continue their negotiations about the budget and redistricting next week. Conferees will be appointed to work on the final budget and will begin closed-door negotiations, and the Joint Redistricting Committee will continue to meet to layout the process for redrawing maps moving forward.

BILL UPDATES

HOUSE BILL 351, Clifford’s Law, was heard in the Senate Judiciary Committee, where a new version was approved. The new version would:

- require the Secretary of the Department of Health and Human Services (DHHS) to establish visitation protocols for residents of nursing homes and combination homes during a disaster declaration or emergency that impacts the facility's normal visitation policy;
- require the protocols to include that each resident has the right to designate one preapproved visitor and one preapproved alternative visitor to be allowed to visit the resident at least twice a month;
- require the DHHS Secretary to consult with licensed operators of nursing homes and combination homes and other relevant stakeholders in establishing the protocols;
- state that the protocols established by the DHHS Secretary are in effect for licensed nursing homes and combination homes during any period of time when (1) there is a declared disaster or emergency and (2) a licensed nursing home or combination home suspends or restricts the normal visitation policy for any reason;
- make these provisions effective April 1, 2022;
- require the DHHS Secretary to implement the visitation protocols by June 15, 2022, and submit a summarizing report to the chairs of the Joint Legislative Oversight Committee on Health and Human Services at least 30 days prior to implementation; and
- enact substantively identical provisions regarding adult care homes, including a family care home, as those concerning licensed nursing homes and combination homes.

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

HOUSE BILL 536, Law Enforcement Duty to Intervene, was amended in the Senate Judiciary Committee including to: (1) require the NC Criminal Justice Education and Training Standards Commission and the NC Sheriffs' Education and Training Standards Commission to search the National Decertification Index maintained by the International Association of Directors of Law Enforcement Standards and Training using the name of every applicant for certification or applicant for lateral transfer, and any other identifying information necessary, and use any record of conviction uncovered to determine if the applicant has any record that would disqualify the applicant for certification; and (2) require a certified individual, or any individual who has received a conditional offer of employment, who has been notified that the individual will not be called to testify at trial based on bias, interest, or lack of credibility to report to and provide a copy of the notification to the Criminal Justice Standards Division or the Justice Officers' Standards Division, as appropriate, within 30 days of receiving the notification. **The bill as amended was approved by the Senate Judiciary Committee and will next be considered by the Senate Rules Committee.**

HOUSE BILL 805, Prevent Rioting and Civil Disorder, was amended in the Senate Judiciary Committee to revise the punishments for rioting or inciting rioting to make it:

- a Class H felony for any person to brandish any dangerous weapon or use a dangerous substance in the course of a riot (was, for any person to possess any dangerous weapon or substance, and did not specify that the offense must happen in the course of the riot);
- a Class F felony to willfully engage in a riot where in the course of the riot, the person causes property damage of more than \$1,500 or serious bodily injury;
- a Class E felony to willfully engage in a riot where in the course of the riot, the person causes a death; and
- a Class D felony to willfully incite or urge another to engage in a riot and such inciting or urging causes a death (previously, required that such inciting or urging be a contributing cause of a riot in which a death results).

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

SENATE BILL 688, Sports Wagering. This bill to allow sports wagering in North Carolina is moving forward in the Senate. Although many are surprised that this bill is moving, the Senate does seem set on approving the law. It is not clear what sort of reception the bill will receive in the House? The bill was amended in the Senate Commerce and Insurance Committee to: (1) limit the authority of the operator to suspend or terminate a player's account by requiring that the reason for suspending or terminating the player's account not be in violation of state and federal law, rather than requiring that the reason not be on the basis of a registered player's actual or believed sex, gender identity, race, religion, national origin, sexual orientation, or other lawfully protected characteristic; and (2) allow the NC State Lottery Commission to accept and issue applications for licensure in order that licensees may begin operations on January 1, 2022. **The bill as amended was approved by the Senate Commerce and Insurance Committee and will next be considered by the Senate Rules Committee.**

BUDGET

Besides a handful of people in Raleigh who work in and around the legislature, many North Carolinians probably do not know that our State is operating under a budget from 2018. There are some good things (we have saved some money) and bad things (failure of our legislative process) about this but at the beginning of the legislative session it appeared that all parties – the Senate, the House and the Governor – were all willing to negotiate a deal. Now that we are 2 months past the budget time frame the parties are not quite as optimistic about a budget, but all three will work toward a solution. Governor Cooper's hand is a bit weakened as his veto power is not as clear with some Democrats in the House and Senate voting with the Republican majority on their respective budget bills. That does not mean that those same Democrats would not vote to uphold a veto, but it is certainly making the discussions interesting. Another factor to consider is that the budget includes spending from some of the Federal stimulus money that NC has received and all agree that those funds are needed. Hopefully we will see true negotiation over competing priorities and we will see a final, approved budget soon for the 2021-2023 biennium.

Many of the disagreements between the Senate budget proposal and the House budget proposal are a matter of degree. For example, the Senate raises state employee's salaries, but the House raises them more, the House budget includes tax breaks, but the Senate reduces them more, the Senate included a variety of policy language and the House did too! The Governor favors the House version but would like even more spending on programs he feels are important and less tax cuts and in fact has announced that since our revenues are higher than expected that he would

support his spending plan with the Republican tax plan. There is a great deal of money in the budget for a wide variety of interests: broadband expansion, educational programs, COVID funding for rural areas, testing and treatment, pay increases for providers of direct care services, capital building funds for the university and community college systems and of course money for groups in legislators districts that they support.

We will do a more specific review of the budget once one is finalized; however, below are the major provisions relevant to your association:

Medicaid

- Expand Medicaid coverage to parents who have temporarily lost custody of their children
- Provide continued funding for NC FAST
- Appropriate \$7.8 million in FY 2021-22 and \$25.9 million in FY 2022-23 for an additional 1,000 individuals with intellectual and developmental disabilities to access services through the State's Medicaid innovations waiver
- Provide funding for additional slots for the Community Alternatives Program for Disabled Adults and the innovations waiver, community alternatives programs, and the traumatic brain injury waiver
- Increase Medicaid reimbursement rates to increase direct care worker wages among HCBS providers, Medicaid private duty nurses, and direct care workers in intermediate care facilities
- Increase funding for the Transitions to Community Living Initiative (TCLI), which supports eligible Medicaid beneficiaries with mental illness in transitioning from institutions to community settings
- The budget includes an increase in the co-pay for Medicaid services to \$4.00

Health

- Encourage hospitals, nursing homes and hospice facilities during declared disasters to develop alternate visitation protocols during emergencies
- Provide additional funding for the Home and Community Care Block Grant (HCCBG), which provides in-home and community-based services for older adults and their unpaid primary caregivers, to reduce the HCCBG waitlist by an estimated 1,500 individuals
- Increase funding for the Key Rental Assistance Program to provide rental subsidies for eligible low-income, disabled individuals
- Provide funding to the City of Winston-Salem and Duke University Hospital for their hospital-based violence intervention programs
- Provide \$10 million to establish a competitive grant program to support virtual behavioral health services
- Allocate \$3.3 million in FY 2021-22 and \$1.8 million in FY 2022-23 to respond to the public health emergency by providing virtual psychiatric assessments and consultations to patients using telemedicine technologies
- Provide \$36 million for local health departments to expand communicable disease surveillance, detection, control, and prevention activities to address COVID-19 and other communicable diseases challenges impacted by the COVID-19 pandemic
- Funding of \$25 million is provided to extend the 5% COVID-19 provider rate increases.

In addition, the budget includes a number of important policies and investments, including significant policy related to telehealth. During the pandemic, telehealth became more widely utilized in the state. The budget includes the language from House Bill 149, which had passed the House but stalled in the Senate. Effective October 1, the budget would establish guidelines and

requirements regarding the coverage of telehealth for health benefit plans in North Carolina. The language would prohibit plans from excluding coverage for services simply because they are provided through telehealth and prohibit plans from requiring pre-authorization for telehealth.

The budget includes significant investments related to mental health, largely in response to the effects of stress during the pandemic. Johnston Health Enterprises, Good Hope Hospital in Harnett County and Harnett Health System, Inc. would each receive \$1.4 million from the Dorothea Dix hospital property fund to open more inpatient psychiatric beds. The House budget also allocates \$25 million to Forsyth and Mecklenburg counties for each county's crisis behavioral health program partnership with the local hospital system, behavioral health crisis centers, emergency services providers, and the local management entities/managed care organizations (LME-MCOs). Finally, the House budget provides \$15.1 million each year in additional funding to help the state comply with federal requirements that the state move Medicaid eligible people with mental illnesses out of institutions into community living settings.

Like the Senate, the House added funding for 1,000 slots for people with disabilities to receive enhanced community services under the Innovations Waiver. The House budget also includes pay rate increases for providers at facilities for people with intellectual and developmental disabilities. It includes \$1.8 million in short-term financial assistance for group homes and \$15 million in recurring funds for group home stabilization and transition.

While the budget does not include Medicaid expansion, it does include continued funding for the shift to managed care. The budget allows transformation funds to be used for claims run out and for other qualifying needs for transformation.

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