



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.



NORTH CAROLINA SECURITY AND LOW VOLTAGE ASSOCIATION



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The bill was filed last week and quickly made its way through committees with little room for amendments. Rep. Donny Lambeth explained that the bill was pre-conferenced with the Senate and that any changes members wished to make to the bill had to be approved by Senate leaders first. House leaders expressed their desire to use taxpayer money wisely and to get this money out the door to those that need it as quickly as possible, reminding members that this will not be the last COVID-19 bill we will see this session. “The quicker we can do it, the faster these moneys can go out, and we can get families across the state the help that they need,” said Rep. Donny Lambeth. “We’re going to have more opportunities to address some of the needs we’ve heard.”

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

HOUSE BILL 245, Efficient Government Buildings & Savings Act, would require reductions in energy and water consumption in public buildings, including requiring (1) the energy consumption per gross square foot for all State buildings in total be reduced by 40% by 2027, and (2) all state agencies and institutions of higher learning to ensure that lighting in unoccupied interior spaces and upward-directed flood lighting is turned off on the premises of all buildings owned or leased by the entities from midnight until 6:00 a.m., unless required for safety, emergency, or insurance purposes. **Introduced by Representatives Szoka, Arp, Saine, and Zenger and referred to the House Energy and Public Utilities Committee.**

HOUSE BILL 254, Const. Amend./Concealed Carry, 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.**

HOUSE BILL 259, Protect Voting Systems/Foreign Interference, 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.**

HOUSE BILL 264, Emergency Powers Accountability Act, 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.**

HOUSE BILL 271, Eminent Domain, 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 condemners 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 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;
- clarify that the add-back provision for taxable years 2019 and 2020 under subdivision (17) regarding federal deduction for business interest expenses that would have been allowed under the Code as enacted on January 1, 2020, is not required to the extent the amount was required to be added back under another provision, and allow a taxpayer who made an addition under subdivision (17) to deduct 20% of the addition in each of the taxable years 2021 through 2025;
- modify the deadlines for informational returns due to the Secretary of Revenue (Secretary) to now require an employer who terminates its business before the close of the calendar year to file its informational return on or before the last day of the month following the end of the calendar quarter in which the employer terminates its business, but no later than January 31 of the succeeding year (previously required filing within 30 days of the last payment of remuneration for employers who terminated business or permanently ceased paying wages during the calendar year);

- require the Secretary to estimate the individual tax due and assess the withholding agent based on the estimate if a withholding agent fails to file a return and pay the tax due or fails a grossly incorrect or false or fraudulent return;
- 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;
- prohibit a TTIN (Truncated Taxpayer Identification Number) from being used on any return, statement, or other document required to be filed or furnished to the Department of Revenue (DOR) unless specifically authorized by the Secretary;
- amend the provisions regarding additions to federal corporate income tax. Clarifies that regarding the required addition of amounts equal to the deduction for business-related interest expenses for taxable years 2019 and 2020 which would have been allowed under the Code as enacted on January 1, 2020, the add-back is not required to the extent the amount was required to be added back under another provisions, and allow a taxpayer who made an addition as specified to deduct 20% of the addition in each of the taxable years 2021 through 2025;
- amend the Secretary's authority to adjust the net income of a corporation to authorize the Secretary to require the corporation to file a return that reflects the net income on a combined basis of all members of its affiliated group with intercompany transactions that are conducting a unitary business when authorized adjustments are not adequate to redetermine State net income (previously did not specify for members of its affiliated group with intercompany transactions for this authority);
- regarding voluntary redetermination, authorize the Secretary and a corporation to jointly agree to a combined return methodology that accurately reports State net income (currently refers to agreement to alternative filing);
- add that the limitation on qualified interest expense does not apply to interest paid or accrued to a related member if the proportionate amount of interest paid or accrued to a related member has already been disallowed by the application of another specified section of the Code regarding the limitations on business interest;
- add to the kinds of information the Secretary can request of a corporation under GS 105-251 to include financial or tax documentation required to determine the appropriate adjustment and authorize the Secretary to propose any adjustment allowable under the corporate income tax provisions if the information is not timely provided as required.

Introduced by Representative Howard and referred to the House Finance 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.

HOUSE BILL 290, Make Certain Drug Offenses Infractions, 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.**

HOUSE BILL 291, Bldg. Plan Approval - Certain Commercial Prop., would establish and require certain time lines for review and approval of commercial building plans for local governments and establish remedies for failure to timely review plans submitted under the expertise of a licensed design professional. The bill would include provisions to:

- require a local government to complete an initial plan review within 15 days for commercial plans submitted that require a design professional seal pursuant to NC Building Code Council rules;
- require the local government to communicate with the design professional to resolve any issues with the submitted plan within that time period;
- require the local government to review any requested information or a resubmitted plan within 15 days from receipt;
- provide for the following in the event that the local government does not issue a permit for the submitted plan within 30 days of initial plan submission, or, if additional information or plan resubmission is requested, within 15 days of the receipt of the information or resubmitted plan: (1) reduction of the fee charged for plan submission and review by 10% each day and (2) allows the permit applicant to retain a third-party firm to review the submitted plans and the local government to issue all necessary permits for the project within 72 hours of third party review and approval, with the local government responsible for reimbursement of the cost of the third party review;
- require a local government to obtain information from the appropriate manufacturer when either the local government or its agents require information regarding specifications or manufacturer engineering information on an element, component, or fixture related to the submitted plan;
- prohibit delaying or denying the issuance of a permit or certificate of occupancy based upon the receipt of such information from the manufacturer; and
- make the provisions applicable to plans submitted on or after the date the act becomes law.

Introduced by Representatives Zenger and Potts and referred to the House Regulatory Reform Committee.

SENATE BILL 191, The No Patient Left Alone Act, 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 202, No Lapse, No Problem, 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.**

SENATE BILL 206, Electronic Modernization for Bonding, would require all State agencies to accept electronic signatures, electronic notary seals, and digital seals that accompany an electronic signature or notarization, with respect to any bonding requirement or bond issuance. All signatures and seals would have to comply with specified state law requirements regarding electronic signatures in government commerce and the Electronic Notary Act. The bill would authorize public agencies to adopt an emergency rule to ensure the authenticity of any electronic signature, notarization, or seal authorized by the act if the adoption of a rule would otherwise be required under the Administrative Procedure Act. **Introduced Senators Johnson and Sawyer and referred to the Senate Rules Committee.**

SENATE BILL 238, Life & Property Protection Act, 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.

LEGISLATION ENACTED

SENATE BILL 220, 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. Effective: March 11, 2021.

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