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Focusing on Legislative Representation

LEGISLATIVE REPORT May 2, 2017

INTRODUCTION

The General Assembly faced the “crossover” deadline this week, meaning that most legislation had to be passed by the chamber in which they were filed by Thursday, April 27th. In total, over 100 bills passed out of the House or Senate this week, with sessions stretching late into the night and furious last-minute lobbying punctuating stretches of relative calm as members sequestered themselves in caucus meetings to strategize and decide the fate of various proposals. A flurry of bills were filed in the House just before the deadline, with most including a small appropriation or some Finance impact as a means of avoiding the crossover deadline (bills that impact the budget, have a Finance Committee referral or are local bills are not subject to crossover).

Bills subject to crossover but did not make the deadline are not eligible to be heard again for the remainder of the biennium session, and will have to be re-filed in 2019. Given the controversial nature of some of the measures that were among those not to make the deadline (including bills dealing with gun rights, immigration, abortion and gay marriage), there is a sense of relief as some divisive and distracting issues can be set aside as focus turns to the budget and the hundreds of bills that did make the cutoff. Not making crossover does not necessarily mean, however, that amendments can't be made to bills that remain eligible. Some of the language in bills that are now presumed “dead” may very well pop up as amendments later in the session.

In addition to meeting crossover deadlines, the House and Senate both voted to override Governor Cooper's veto of House Bill 239 which will reduce the size of the Court of Appeals from 15 judges to 12. As the next three judgeship terms end, they will be ineligible for replacement under the language of the bill. Cooper originally vetoed the legislation citing concerns that the bill encroached on the Governor's authority to replace vacancies in the court. Three vacancies are expected to occur during Cooper's first term in office and he will now be unable to appoint replacements.



NORTH CAROLINA COLLEGE OF EMERGENCY PHYSICIANS



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BILLS OF INTEREST

HOUSE BILL 858, Medicaid Expansion/Healthcare Jobs Initiative, is identical to Senate Bill 290, and would: (1) expand eligibility for the Medicaid program to include all people under age 65 who have incomes equal to or below 133% of the federal poverty level; (2) appropriate funds for costs associated with the expansion; (3) account for the savings to other State programs as a result of the expansion; and (4) subject each hospital that is not fully exempt from both the equity assessment and UPL assessment to an additional assessment in order for the hospital providers of this State to pay for the State share of the service and administrative costs of Medicaid expansion. **Introduced by Representatives Farmer-Butterfield, Earle, Autry, and B. Richardson and referred to the House Appropriations Committee.**

HOUSE BILL 869, Change Membership of Medical Board, would:

- reduce the total number of public members appointed by the Governor from three to one;
- add a new provision establishing that the General Assembly will now appoint two public members, one upon the recommendation of the Speaker and one upon the recommendation of the President Pro Tempore;
- make the existing provision prohibiting a public member appointed by the Governor from being a health care provider or the spouse of a health care provider also applicable to a public member appointed by the General Assembly; and
- provide that for the term of the public member appointed by the Governor expiring in 2017, that member must be appointed by the General Assembly upon the recommendation of the Speaker, and for the term of the public member appointed by the Governor expiring in 2018, that member must be appointed by the General Assembly upon the recommendation of the President Pro Tempore

Introduced by the House Rules Committee. The bill was approved by the House and sent to the Senate where it has been referred to the Senate Rules Committee.

HOUSE BILL 876, CPR Training/School Bus Driver, would require regular school bus drivers to be certified in cardiopulmonary resuscitation (CPR) and provide funds to implement the requirement. **Introduced by Representatives Brenden Jones, Bradford, Clampitt, and Dulin and referred to the House Appropriations Committee.**

HOUSE BILL 881, Automatic Voter Registration, would provide for automatic voter registration at drivers license offices and certain public agencies, and direct the State Board of Elections to establish and implement an education and outreach campaign to inform voters of the automatic voter registration procedures. The person taking the application would affirmatively ask if the applicant is registered to vote and, if not, whether the applicant would like to register to vote. If the applicant declines registration, the person taking the application would note on the application that the applicant affirmatively declined to become registered to vote during the transaction with the agency. If the applicant wishes to register to vote, the person taking the application would require the applicant to provide specified information, including declaring a preference to be affiliated with a political party or a preference to be an unaffiliated voter. Any person who willfully and knowingly and with fraudulent intent gives false information on the application would be guilty of a Class I felony. The bill also would provide funds to the Division of Motor Vehicles, and the Department of Health and Human Services, Divisions of Public Health and Central Management and Support to implement these requirements. **Introduced by Representatives Brockman, Meyer, Beasley, and Duane Hall and referred to the House Rules Committee. Was not taken up before the crossover deadline.**

HOUSE BILL 883, Increase Inmate Health Care, would establish a Health Information Exchange such that all state jails and prisons can increase sharing of necessary health information of inmates, including the person's condition, medical tests and results upon intake, medications prescribed, vital signs and special medical needs. The Senate companion bill is Senate Bill 458. Both bills would also do the following:

- require every sheriff and prison in North Carolina to annually certify to the Secretary of the North Carolina State Department of Health and Social Services and the North Carolina Commissioner of Corrections that the jail they administer is part of the Exchange and is using computer-based medical software in accordance with this bill;
- require each sheriff or Prison Administrator to certify that their software system has been designed or approved by a medical doctor with experience in treating prisoners;
- maintain inmates' privacy rights in their medical records; and
- appropriate to the Department of Public Safety \$2,150,000 in nonrecurring funds for 2017-18 and \$750,000 in recurring funds for 2018-19 for the necessary software.

Introduced by Representatives Murphy, McNeill, Dobson, and Lambeth and referred to the House Appropriations Committee.

HOUSE BILL 885, Community Opportunity Tax Credit, would authorize individual and corporate taxpayers who donate money to a community-based development organization (as defined) a credit against the taxes under this statute of up to 33% of the amount donated. The total amount of all tax credits allowed to taxpayers under this section for donations made in a calendar year could not exceed \$5 million. **Introduced by Representative Setzer and referred to the House Finance Committee.**

HOUSE BILL 886, Excise Tax Increases for Substance Abuse, would increase excise taxes on tobacco products other than cigarettes, cigarettes, and malt liquor with a portion of the funds being remitted to the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services in the Department of Health and Human Services for supporting the provision of substance use programs and services. **Introduced by Representative C. Graham and referred to the House Finance Committee.**

HOUSE BILL 887, Health Insurance State Mandates Study/Funds, would create the Joint Legislative Committee on State Mandated Health Insurance Coverage Requirements to study all health insurance mandated coverage requirements imposed by the State upon health insurance sold in the state. The bill also would provide \$200,000 to contract for consultant services to assist the Committee in conducting its work. **Introduced by Representatives Blackwell, Lambeth, Collins, and Hardister and referred to the House Health Care Reform Committee.**

HOUSE BILL 891, Free Breakfast and Lunch in K-12 Pub. Schools, would establish the North Carolina School Breakfast and Lunch Fund, and provide \$200 million in each of the next two years to the Department of Public Instruction to provide free breakfast and lunch for students in public schools, including cooperative innovative high schools, regional schools, charter schools, and lab schools. **Introduced by Representatives Brockman, Quick, Autry, and Holley and referred to the House Appropriations Committee.**

HOUSE BILL 892, Free Lunch for Some Students/Stop Lunch Shame, would provide \$5 million to the Department of Public Instruction to provide that any student eligible for reduced-price lunch, including students in cooperative innovative high schools, regional schools, charter schools, and lab schools, receive lunch at no cost. The bill also would prohibit public schools

from: (1) publicly identifying or stigmatizing a student who cannot pay for a meal or who owes a meal debt by, for example, requiring that the student wear a wristband or hand stamp; or (2) requiring a student who cannot pay for a meal or who owes a meal debt to do chores or other work to pay for meals, unless chores or other work are required of all students regardless of meal debt. The school would be required to direct communications about a student's meal debt to a parent or guardian and not the student; however, the school could send a student home with a letter addressed to a parent or guardian. **Introduced by Representatives Brockman, Harrison, Quick, and Terry and referred to the House Appropriations Committee.**

HOUSE BILL 900, Safe Infrastructure & Low Property Tax Act, would:

- require the Department of Revenue, in conjunction with municipal governing entities and county boards of commissioners, to: (1) study the existing property tax exemptions, exclusions, deferrals, and other benefits to determine whether those benefits are needed or no longer serve the intended function and are, therefore, suitable for repeal; and (2) report the findings of its study to the Revenue Laws Study Committee no later than January 1, 2018;
- direct the Revenue Laws Study Committee to: (1) study property tax benefits currently provided to nonprofit entities and evaluate the amount of charity care provided by recipient nonprofit entities, the costs associated with all local services provided to and benefitting nonprofit entities, and the impact on local property tax revenues of the loss of tax base resulting from nonprofit entities purchasing and using previously taxed parcels of property; and (2) report its findings, together with any recommended legislation, to the 2018 Regular Session of the 2017 General Assembly upon its convening;
- allow municipalities to levy a 1.5% local prepared food tax, in addition to the current local sales and use taxes, to be used only for construction and improvement public infrastructure and facilities or for economic development, if approved by voters in a referendum, with specified exemptions; and
- authorize municipalities to levy a local occupancy tax, if approved in a referendum and a resolution is adopted; and
- allow municipalities to levy a local sales and use tax at the rate of ¼ % in addition to the current local sales and use taxes, to be used only for construction and improvement public infrastructure and facilities or for economic development, if passed in a referendum and the governing body of a municipality adopts a resolution and after 10 days' public notice.

Introduced by Representatives Ross and Saine and referred to the House Finance Committee.

HOUSE BILL 901, Amend Certificate of Need Laws, would:

- exempt ambulatory surgical facilities from certificate of need laws; and
- exempt from certificate need for review three specified activities by a community hospital with 200 acute care beds or less as of December 31, 2016: (1) the development of a new institutional health services; (2) the construction development or a portion thereof; and (3) the acquisition of major medical equipment, magnetic resonance imaging equipment, a lithotripter, or a linear accelerator.

Introduced by Representatives Collins, Boswell, and W. Richardson and referred to the House Health Committee.

HOUSE BILL 902, Enhance Patient Safety in Radiologic Imaging, would require the licensing of persons who perform and administer radiologic imaging and radiation therapy procedures. The bill would:

- prohibit persons or business entities from knowingly employing a person who does not hold a license or is not exempt; and
- exempt nine classes of persons from the requirements of this Article, including licensed medical, dental, podiatric, or chiropractic practitioners performing radiologic imaging procedures or administering radiation therapy.

Introduced by Representative Insko and referred to the House Health Committee. Was not taken up before the crossover deadline.

HOUSE BILL 906, Statewide Nondiscrimination/Funds, would:

- define "protected status" as a person's race, color, national origin, religion, age, disability, sex, marital status, familial status, sexual orientation, gender identity, military or veteran status, or genetic information;
- prohibit discrimination in real estate transactions, employment, lending or the extension of credit, public schools, charter schools, and nonpublic schools on the basis of race, color, national origin, religion, age, disability, sex, marital status, familial status, sexual orientation, gender identity, military or veteran status, or genetic information
- enact the Equal Access to Public Accommodations Act to protect and safeguard the right and opportunity of all individuals within the State to enjoy fully and equally the goods, services, facilities, privileges, advantages, and accommodations of places of public accommodation free of discrimination because of race, religion, color, national origin, sex, sexual orientation, gender identity, disability, marital status, familial status, military or veteran status, or genetic information;
- provide that it will not be deemed to constitute discrimination on the basis of sexual orientation or gender identity for a public accommodation to provide separate bathrooms or changing facilities based on gender, but a place of public accommodation must provide access to such facilities based on a person's gender identity;
- provide \$1 million to the Department of Administration, Human Relations Commission, to provide grants to requesting counties and municipalities to be used to support nonprofit community organizations that support youth who identify as lesbian, gay, bisexual, transgender, or queer; and
- provide \$788,076 to the Department of Administration, Human Relations Commission, to be used for operating expenses and to fund four new positions.

Introduced by Representatives Meyer, Beasley, Brockman, and Butler and referred to the House Appropriations Committee.

HOUSE BILL 907, Enhance Health Care Choices for Seniors, would exempt from certificate of need review the establishment of a home health agency by a continuing care retirement community for the purposes of providing home health services to residents who contract with the continuing care retirement community to receive continuing care services with lodging. CON review is still required for home health services provided by a continuing care retirement community to individuals not residing in the retirement community. **Introduced by Representatives Setzer and Earle and referred to the House Health Committee and, if favorable, the House Judiciary I Committee. Was not taken up before the crossover deadline.**

HOUSE BILL 913, Reestablish NC High Risk Pool, would reestablish a North Carolina Health Insurance High Risk Pool (HIHRP) if the provisions of the Patient Protection and Affordable Care Act are repealed. The bill would state the intent of the General Assembly to appropriate funds to assist in offsetting the cost of premiums for coverage available through a HIHRP, upon

its creation, and seek any federal funding that may be available for this purpose. The bill also would:

- require a Plan of Operation to be approved by the NC Commissioner of Insurance and enacts new state laws for the administration of a HIHRP; and
- provide eligibility for this Risk Pool coverage for NC residents if any of the following evidence is provided:
 - a notice of rejection or refusal to issue substantially similar health insurance coverage for health reasons by an insurer, but a rejection or refusal by an insurer offering only stop-loss, excess loss, or reinsurance coverage with respect to the applicant is not sufficient evidence of eligibility;
 - an offer to issue health insurance coverage only with a conditional rider that limits coverage for the individual's high-risk medical condition;
 - a refusal by an insurer to issue health insurance coverage except at a rate exceeding the Pool rate;
 - a diagnosis of the individual with one of the medical or health conditions listed by the Board in accordance with this statute, provided that an individual diagnosed with one or more of these conditions is eligible for Pool coverage without applying for other health insurance coverage;
 - qualification as a federally defined eligible individual, whether or not currently covered by an insurer under that qualification;
 - an individual who is legally domiciled in this State and is eligible for the credit for health insurance costs under the Trade Adjustment Assistance Reform Act of 2002 (federal tax law), providing that each dependent of an individual who is eligible for Pool coverage shall also be eligible for Pool coverage;
 - the individual has current individual health insurance coverage at a rate exceeding the Pool rate; or
 - the individual is eligible for and has not exhausted current Consolidated Omnibus Budget Reconciliation Act (COBRA) continuation coverage at a rate exceeding the Pool rate and provides evidence of eligibility for Pool coverage.

Introduced by Representative Lewis and referred to the House Health Care Reform Committee.

HOUSE BILL 914, Enhance Suicide Prevention Awareness & Svcs, would require DHHS to establish and administer a statewide suicide prevention program for first responders and veterans, and would further:

- appropriate funds to DHHS, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for the establishment and administration of the statewide suicide prevention program for first responders and veterans;
- provide space on the income tax return for individuals to make donations to support the statewide suicide prevention program for first responders and veterans; and
- create a 25-member Veterans Reintegration Task Force within the Department of Veterans and Military Affairs (DVMA) to develop a statewide action plan for assisting active duty service members, veterans, and their families.

Introduced by Representative Cunningham and referred to the House Appropriations Committee.

HOUSE BILL 916, North Carolina Health Plan, would offer a comprehensive health care plan for all residents of North Carolina, on January 1, 2019, in accordance with the provisions of the Patient Protection and Affordable Care Act that allows states to offer their citizens alternatives to the Health Insurance Exchanges. The Department of Insurance and the Department of Health and

Human Services would study the issues and propose statutory changes to facilitate the operation of the Health Plan, and report to the House Committees on Health and Human Services and Insurance and to the Senate Committee on Insurance no later than January 1, 2018. The bill would provide \$2.5 million to the Department of Insurance and \$2.5 million to the Department of Health and Human Services to implement the study. For the first two years of the Health Plan, no co-payments or deductibles would be charged. If later implemented, deductibles could not exceed \$250 per individual or \$500 per family. The Health Plan would not charge co-payments or deductibles for preventive care; but could charge a co-payment or deductible for a specialist visit without a referral by a primary care provider. All residents would be covered, but would have to enroll prior to receiving services. The Health Plan would offer a direct billing system for providers, and providers who participate in the direct billing system would be entitled to payment for services within 30 days of providing services. **Introduced by Representatives Brockman and Insko and referred to the House Appropriations Committee.**

SENATE BILL 630, *Revise IVC Laws to Improve Behavioral Health*, would significantly revise the State laws on Involuntary Commitments and contains 39-pages of such revisions, including, but not limited to, the following:

- Newly defining a “Commitment examiner” (versus current law specifying a “physician or eligible psychologist”) as a physician, eligible psychologist, or any health professional or mental health professional who is certified under state law to perform the first examination for involuntary commitment.
- Newly defining an "Incapable" individual (separate and apart from an “Incompetent” individual) as one who currently lacks sufficient understanding or capacity to make and communicate mental health treatment decisions, in the opinion of a physician or eligible psychologist. An adult individual who is incapable is not the same as an incompetent adult unless the adult individual has been adjudicated incompetent under Chapter 35A of the General Statutes.
- Clarifying that an "Outpatient treatment physician or center" under state law means a physician or center that provides treatment services directly to the outpatient commitment respondent. An LME/MCO that contracts with an outpatient treatment physician or center to provide outpatient treatment services to a respondent is not an outpatient treatment physician or center.
- Creating a new state law requiring every LME/MCO to adopt a “community crisis services plan” (or “local area crisis services plan”) that shall do all the following, at a minimum:
 - Identify area facilities where a first examination by a commitment examiner shall be conducted;
 - Identify persons, counties, cities, etc., responsible for transportation and custody of those in involuntary commitment proceedings;
 - Identify appropriate and available law enforcement training;
- Revising state law involving the transfer of clients between 24-hour facilities and to acute care hospitals.
- Setting forth a whole new section of state statutes entitled, “Voluntary Admissions and Discharges; Incapable Adults; Facilities for Individuals with Mental Illness and Substance Use Disorder” and making conforming changes within existing statutes.
- Outlining new responsibilities in commitment procedures for LME/MCOs, DHHS, and the courts.

Introduced by Senators Hise, Krawiec and Randleman. Passed the Senate, and referred to the House Rules Committee.

BILL UPDATES

HOUSE BILL 36, NC IOM Study of Eye Care Access. The House committee substitute deletes the provisions of the first edition which would have greatly expanded the types of allowed procedures for optometrists. The new language instead directs the NC Institute of Medicine (NC IOM) to study the issues addressed in HB 36 (Enact Enhanced Access to Eye Care Act). The bill also directs the NC IOM to report findings and recommendations pertaining to access to eye care, including draft legislation if appropriate, to the Joint Legislative Oversight Committee on Health and Human Services by October 1, 2018. **This new study bill passed the House on April 27, was sent to the Senate and referred to the Senate Rules Committee.**

HOUSE BILL 91, Require Safety Helmets/Under 21. Strong opposition efforts convinced House members to withdraw House Bill 91 not once, but twice from the House floor on April 25 and April 26. The bill is now assigned to the House Rules Committee. HB 91 would allow a person 21 years of age or older to operate a motorcycle without wearing a safety helmet. **The bill did not make the crossover deadline and is “dead” for the remainder of the 2017-2018 session. We worked hard to defeat this bill and thank the many emergency physicians who contacted their House members.**

HOUSE BILL 492, Increase Penalties for Certain Assaults. This bill to increase the criminal penalties for assault on firefighters, law enforcement officers, emergency medical technicians, medical responders, hospital personnel, licensed health care providers, state and local government officers and employees, executive officers, legislative officers, judicial officers while they are attempting to discharge official duties passed the House on April 26. **Passed the House, sent to the Senate and referred to the Senate Rules Committee.**

HOUSE BILL 701, OLB Uniform Discipline and Increase Oversight. The bill to require occupational licensing boards to adopt rules governing hearings in order to exercise the power to summarily suspend licenses and increase oversight of occupational licensing boards **passed the House and will next be considered by the Senate Rules Committee.**

HOUSE BILL 827, Use of Passing Lane/Increased Penalty, was amended in the House Transportation Committee to:

- require any vehicle proceeding at less than the legal maximum speed limit or impeding the steady flow of traffic to be driven in a lane other than the inside lane next to the centerline or median of a multilane highway, except when overtaking and passing another vehicle proceeding in the same direction or when making a left turn;
- provide \$50,000 to the Division of Motor Vehicles to provide education to the public on compliance with this section; and
- require a violation to be enforced by warning ticket only until November 30, 2018.

The bill as amended was approved by the House Transportation Committee and sent to the House Judiciary I Committee.

LEGISLATION ENACTED

HOUSE BILL 13, Class Size Requirement Changes. The proposed committee substitute adopted by the Senate would delay the class size reduction mandate until the 2018-19 school year with the exception that the average class size for K-3 will be capped at 20 students in 2017-18 (current 16-17 law is 21 students), and would also cap the individual class size in K-3 at 23

students in 2017-18 (current 16-17 law is 24 students). For the 2018-19 school year, however, the full class size reductions (as enacted in the 2016 budget) go into effect with a verbal commitment to fund the reductions. The bill as amended was approved by the Senate and the House agreed to the changes made to the bill made by the Senate. The bill was signed into law by the Governor on April 27, 2017. **Effective: April 27, 2017, and applies beginning with the 2017-2018 school year.**

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