

# Legislative Update March 5, 2021

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## Practices

Legislative & Regulatory

## Article

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Business on Jones Street kicked off this week with the Governor issuing his first veto of the year. He vetoed a bill to require schools to offer some level of in-person instruction. An override vote is still pending in both chambers.

Lawmakers' main focus this week was wrapping up a \$1.7 billion COVID-19 relief bill. In addition to COVID-19 relief, legislators also worked on bills reopening some public venues, despite Governor Cooper's current pandemic restrictions. Some of these bills include additional allowances for bars and increased occupancy levels at high school sporting events and high school graduations. In presenting these bills, legislators have tried a new approach by filing them as local bills, a step which limits the number of counties the bill applies to (14 or less), but the bill is not subject to a gubernatorial veto.

Both chambers continued to consider legislation, but only time-sensitive or priority bills have received votes in both chambers. Other bills have based their originating chamber but will likely not be considered by the other chamber until after the May 13 crossover deadline.

Governor Cooper announced this week that individuals in Group 4 would be eligible to receive a COVID-19 vaccine starting March 24. Group 4 includes all adults (16-64) who have an underlying health condition that puts them at risk of COVID-19 complications. Individuals in Group 3 became eligible for vaccination this week. This group includes essentials workers, such as those working in the following industries: health care, government, manufacturing, food supply/ agriculture, education, food and medicine retail, auto repair, and community services.

## Bill Action Dates

- March 11: Senate local bill filing deadline
- March 25: House local bill filing deadline
- April 6: Senate public bill filing deadline (does not apply to constitutional amendments, elections bills, or appointments)

- April 20: House filing deadline for non-budget bills
- April 27: House filing deadline for budget bills
- May 13: Crossover deadline for both the House and Senate. Bills must have passed at least one chamber to remain eligible for consideration for the remainder of the session.

## In-person Education Bill Veto

On February 26, Governor Cooper vetoed his first bill of the session, SB 37: In-Person Learning Choice for Families. The legislation would have required school districts to offer in-person instruction to students if requested by their parents but did not mandate a full return to in-person instruction. The legislation also gives schools the flexibility to modify instructional responsibilities for teachers who were in high COVID-19 vulnerable categories.

In his veto message, the Governor cited two objections to the legislation. The first, that it violated the current Centers for Disease Control and NC Department of Health and Human Services (DHHS) guidelines. And, second, that it restricted state and local governments from enacting further restrictions if the situation warranted them. In media reports, the Governor stated that he supports students returning to the classroom and would sign similar legislation if his two objections were fixed.

The bill passed both chambers by a bipartisan vote; 31-16 vote in the Senate, and 77-42 vote in the House. Both chambers' votes were above the two-thirds majority required to override a veto, but when the Senate took up to the override on Monday, only one Democrat voted to override. In an unusual procedural move, Senate leaders made a motion to reconsider the veto override vote, signaling that they consider the override at a future time since they were only one vote short on the first attempt. No action has been scheduled in the House.

WRAL: No date set for next vote on school reopening bill

## COVID-19 Relief Bill

This week, the General Assembly passed another round of COVID-19 relief. House Bill 196 appropriates roughly \$1.7 billion in federal funds and extends the dates for many previously-passed COVID-19 special provisions. Unlike the COVID-19 relief bill passed earlier this year that focused mostly on education, this bill focused on broader government areas.

The bill spends nearly \$336 million on subsidized childcare for families. It also allocates \$84 million to local health departments and \$15 million to the UNC Policy Collaboratory for COVID-19 detection, with an emphasis on identifying and cataloging variant COVID strains. The legislation also appropriated roughly \$60 million to support mental health. The Department of Transportation (DOT) received \$230 million for highway projects that have been delayed, focusing specifically on bridge repair and interstate maintenance.

The legislation also restructures appropriations from the first COVID-19 relief bill of 2021 for the Housing Opportunities + Prevention of Evictions (HOPE) Program. The HOPE Program helps those who cannot afford to pay their rent or utilities due to the pandemic. The provision included in this legislation sets a schedule of funds available to each county. It also requires the Office of Recovery and Resiliency to pay only the amount owed by applicants and not rely upon median area rent values. Governor Cooper has expressed his opposition to these changes, saying that it will

slow down the administration of these funds, but bill sponsors the need to ensure that the funds are distributed equitably across the state.

In addition to the appropriations, the legislation updated additional actions taken in previous legislation.

These include the following:

- Continuation of a temporary 5% Medicaid reimbursement to health care providers
- Extension of the wavier on UNC-system student debt
- Local governments are now required to issue temporary occupancy certificates to health care facilities
- Pharmacists are allowed to administer long-acting injectable medications
- Extension of the recently-expired remote notary provision
- Extension of last year's "health care provider liability exemption." The legislation extends the exemption until the end of the Governor's declared COVID-19 emergency
- The definition of health care provider for the liability shield was amended to include volunteers
- Tourism development authorities are allowed to accept federal Paycheck Protection Program loans, but the loans cannot obligate the State or any local governments
- Attorneys are allowed to take their oath via video conferencing
- The Department of Agriculture and Consumer Services was allowed to use their federal funds to assist meat producers with COVID-related needs to stay operational
- The Farmworker Quarantine Program also receives additional funds

House and Senate budget writers had been working on the bill for several weeks, and although much of it was pre-negotiated between the two chambers, the bill did get off to a rocky start. Democrats objected to the bill not including bonuses for teachers and other educational staff and not increasing unemployment benefits. But despite some members feeling that the bill should go further, it passed both chambers unanimously.

WRAL: NC lawmakers unanimously pass \$1.7B pandemic relief package in 4 days

## Executive Order 195

Last week, Governor Cooper issued Executive Order 195, which relaxes many of the COVID-19 restrictions. The Governor and Department of Health and Human Services (DHHS) Secretary Mandy Cohen cited decreasing COVID cases and hospitalizations in their announcement. Several industries have been asking for months for lighter restrictions as their businesses have struggled.

The Executive Order went into effect on February 26 at 5 pm and expires on March 26. It lifts the statewide 10 pm curfew but still keeps the face-covering requirement for individuals in public. Under the Order, bars and entertainment facilities will be allowed 30% of their capacity but limited to 250 people indoors. Outdoor bars are allowed to have up to 250 people. Alcohol sold for on-premise consumption was previously cut off at 9 pm but will now be cut off at 11 pm and not allowed until 7 am the next day. Large indoor facilities and arenas with a 5,000 person or greater capacity will

be exempt from the 250 person restriction but will be capped at 15% of their capacity. Gyms, personal fitness centers, restaurants, and retail establishments will be limited to 50% of their capacity.

The 100-person limit on outdoor stadiums will be lifted, and a 30% capacity restriction will be set. However, several bills are being considered to raise the capacity of high school sporting events higher.

The Executive Order still requires businesses to follow social distancing and other safety guidelines. The mass gathering limit is 25 people indoors and 50 people outdoors for places not explicitly carved out in other sections.

WRAL: Cooper lifts curfew, eases gathering and occupancy limits

## Summer School Option

Last week, the House unanimously passed a bill this week that would give parents the option to send their children to a summer school program. The summer school would be in-person and aimed to help the students struggling due to online learning. School districts would be required to offer at least 150 hours or 30 days of instruction.

Bill sponsors cite data showing that many students are below grade level and at risk of being held back from promotion. The bill does not make summer school mandatory, leaving that decision in the hands of parents. Teachers will also not be required to teach summer school but will receive additional pay if they choose to teach. The supplemental instruction will be paid for with federal relief money. Governor Cooper has said that he supports the idea and realizes that many students will need additional instruction. The Governor has expressed concern that it is too early to tell if it will be safe to return large numbers of students to in-person settings by the summer. House leadership says that it anticipates further updates to the bill but is optimistic that in-person instruction will be safe by summer.

WRAL: Lawmakers propose 6 weeks of summer school to help NC students make up for learning lost during pandemic

## House Telehealth Bill

House Healthcare Chairs recently filed a bill to require health insurance plans to cover telehealth visits. Telehealth would be provided by licensed healthcare professionals and be conducted through real-time interactive audio and video technology. The provider can receive and review patient medical records before the visit. Providers would need to screen patients and identify those that need an in-person visit. Health insurance plans would be required to cover the visits without prior authorization if the same in-person visit would not have required it. Plans must also not charge deductibles for telehealth visits that are higher than what they would be in-person. Health plans are also forbidden from placing distance restrictions on where the patient is located, and the provider is located. Health insurance plans are not required under the bill to reimburse at the same rate as an in-person visit.

The House passed a telehealth bill with a vote of 113-4 last session, but the bill did not receive a Senate vote. Some insurance companies have seen telehealth coverage bills as a mandate and have opposed them in the past. However, with the COVID-19 pandemic, the practice of medicine, like many other things, has been forced to shift to conducting some business virtually. The bill's effective date is October of 2021.

List of All Filed Bills: <https://www.ncleg.gov/Legislation/Bills/WithAction/2021/10>

## 2020 Summary of Substantive Legislation

The Legislative Analysis Division has published the 2020 Summary of Substantive Legislation, which breaks down new laws by subject matter. Below is a link to the document: <https://www.ncleg.gov/Legislation/SummariesPublication/Subjects/2020/>