



North Carolina Spirits Association

Legislative Report
November 1, 2019

Since the legislature adjourned and will not be returning until November 13, 2019 we will not send a legislative report on November 8, but will send a legislative report on November 15, 2019.

Both the House and Senate adjourned on October 31 until November 13, 2019, after attempting to wrap up business for the year this week. The adjournment resolution specifies that the legislature can address redistricting matters, appointments, nominations, conference reports, and another adjournment resolution in their November session. The resolution also specifies that the legislature will return to Raleigh for session on January 14, 2020 to address the same issues as allowed in November, plus veto overrides, funding for the Department of Transportation (DOT), bills addressing access to health care, and budget modifications.

When legislators return in November, they will be redrawing congressional districts, after a three judge panel recently entered a ruling indicating that the State needs to redraw the maps based on a similar ruling over a partisan gerrymandering of the state legislative districts. The judges' order granted an injunction to halt the 2020 primaries as a result of the case. The same three judge panel also approved the legislature's recent redraw of the state legislative maps.

The legislature passed a bill to increase teacher pay this week, but the bill was not without controversy. Senate Bill 354 would give teachers the 3.9% over two years raise that they would have received under the vetoed budget, plus an additional raise to make the increase 4.4% over two years if the budget veto override is successful. Democrats are calling this a political ploy, and no Senate Democrats voted for the bill and only three Democrats voted for the bill in the House.

One bill held up this week was the Storm Recovery Act of 2019, which contains appropriations to aid in the recovery of Hurricane Dorian and other recent named Hurricanes. The bill passed the House with around \$280 million for various programs. The Senate has been advancing a drastically paired down version of the bill, only containing \$150 million in appropriations. The Senate removed much of the storm preparation money and stuck to traditional aid programs. The bill is now in conference and will be an eligible topic when legislators return in a few weeks.

Speculation of a veto override vote started last Friday when the Senate added the veto override of House Bill 966, the budget, to Monday's calendar. The Senate Rules require that the majority party notice the vote at least 24 hours prior to holding it. However, Senate leadership ended up pulling the bill from the calendar, and placing it on the next day's calendar. They would ultimately end up placing three veto override bills (budget, Medicaid Transformation, and Regulatory Reform) on the calendar daily, only to remove them and place them on the next day's calendar. No veto override votes were taken this week, indicating that the Republicans do not currently have the votes necessary to override. The State Constitution requires a three-fifths majority vote of the members voting and present to override a veto. Republicans currently hold 29 of 50 seats in the Senate, meaning that they would need one Democrat to vote with them or two Democrats to be

absent to override if all 29 Republicans were present. The adjournment resolution that calls the General Assembly back to Raleigh in November does not list veto overrides as one of the allowable topics, but does include veto overrides in the January session.

The House and Senate reached a compromise on the North Carolina Farm Act of 2019 last week, but that compromise quickly fell apart this week. The two chambers had been at odds for months over a ban on smokable hemp. With some arguing that allowing smokable hemp would essentially be a backdoor way to legalize marijuana, since the two plants look and smell similar, making it hard to differentiate between the two. While others contended that banning smokable hemp will severely affect farmers' ability to market the crop, since the smokable products are one of the most profitable uses of the plant. The two sides reached a compromise last week in conference and agreed on a smokable hemp ban that will start on June 1, 2020, with a study to take place in the intermittent time.

However, another section of the bill that has gotten less attention caused the House to pull the conference report from Monday's calendar, after the Senate had already adopted it. Section 20 of the bill adds hunting, fishing, shooting sports, and equestrian activities to the list of actions that qualify as agritourism on a bona fide farm. The agritourism statutes exempt farm operations from local zoning ordinances and building regulations, and have traditionally been used to allow for wedding venues and other similar uses on farms. Some House members have concerns over adding shooting ranges to the definition, and requested a provision be added to ensure that the shooting ranges comply with local regulations. Supporters of the provision claim that this undermines the intent of the language. It is unclear what the path forward will be, since the Senate has already voted to accept the conference report.

The General Assembly passed two finance bills this week that largely include provisions included in the vetoed budget. Senate Bill 557 and Senate Bill 578 are both on the Governor's desk. Senate Bill 557 increases the standard deduction for married filing jointly from \$20,000 to \$21,000, and from \$10,000 to \$10,750 for those filing single. The bill also clarifies the definition of a holding company for franchise tax implementation. It establishes market-based sourcing for companies calculating their sales factor for multistate apportionment, and requires marketplace facilitators to collect and remit sales tax for third-party-sellers. The bill had a hiccup in the House Finance Committee when Representative Adcock successfully amended the bill to add a tax increase on vaping products, claiming that she wanted to make the tax comparable to the tax on cigarettes. The amendment was later removed in another committee, and, when she tried to run a similar amendment on the House floor, it was ruled out of order. The bill passed both chambers with large, bipartisan support.

Senate Bill 578 reduces the franchise tax rate from \$1.50 to \$0.96 per \$1,000 of tax value over two years. The rate will be \$1.29 in 2021 and \$0.96 in 2022. Electric utility companies will continue to pay the \$1.50 rate until 2027. The bill also reduces the qualifying expense threshold for awards from the Film and Entertainment Grant Fund. This section also specifies that the grant is a binding agreement and not subject to appropriations by the General Assembly. This bill also ran into problems in the House Finance Committee after failing to receive a favorable report. The bill was moved to the House Rules Committee where it was approved and sent to the floor. The bill received criticism from some Republicans, who do not like the film grant, and many Democrats who feared that the franchise tax cuts would reduce the funds available for other government

priorities, like education and state employee pay raises. The bill was approved on largely party lines in both chambers.

The House Health Committee held a meeting last week to hear from the NC Department of Health and Human Services (DHHS), NC Healthcare Association (NCHA), and the NC Medical Society on the state's move to managed care Medicaid, known as Medicaid Transformation. DHHS Secretary Mandy Cohen noted slow sign-ups and the budget stalemate as challenges to meeting the February 2020 implementation date, but still insisted that the Department would be ready if they had a budget by November 15. The provider community seemed less optimistic that the February 2020 date was feasible, as they noted slow patient sign-ups, credentialing issues, and a lack of provider contracts in place. Without provider contracts in place, many Medicaid beneficiaries will not be able to select their doctor when enrolling, and credentialing issues will affect reimbursements. Lawmakers also expressed concern with the Department's aggressive timeline, with Republicans and Democrats both talking of delaying the implementation until July 2020

The legislature adjourned on October 31 and will reconvene on November 13.

BILL STATUS

Senate Bill 419, Technical and Other Changes, was amended in the House Rules Committee on Wednesday to modify a provision that passed earlier this session in Senate Bill 290, ABC Regulatory Reform Bill. The change would "permit" rather than "require" that ABC Stores to allow the purchase of individual bottles of spirituous liquor related to special orders. The Committee approved the bill with this change. On the House floor, an amendment was adopted to remove this provision from the bill, before it passed the House. So the net effect is that the provision of Senate Bill 290 was not changed.

For more information about legislation described in the legislative reports, feel free to contact me at dferrell@nexsenpruet.com or (919) 573-7421. Information is also available on the General Assembly's website: www.ncleg.gov.

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