



## INTRODUCTION

Frankly, I have run out of words to describe what is happening in our country and our state – unprecedented, extraordinary, once in a lifetime, shocking, unbelievable. Yet here we are in circumstances that no one could have predicted even back in January. Just like every other business, industry and person, the Legislature was impacted by COVID-19, and the topic and its repercussions took over all discussions, plans and legislation.

After an extremely long “long session” in 2019 that slowly ebbed into 2020, the Legislature was scheduled to return on April 28<sup>th</sup> for their normal “short session,” although it was already an unusual legislative year with no new budget in place (the State is currently operating under the previous budget). By the time April rolled around, we were deep into our lockdown with many businesses still operating, but many allowing employees to stay home as much as possible. The Federal government had already approved the CARES Act which provided funding to each State for a variety of COVID-19 related expenses. In a rare show of bipartisanship, the House and Senate agreed to the package of spending from the CARES Act and the Governor signed the bill quickly into law. They did not spend all of the Federal funds as they wanted to wait to see what the needs were as the situation progressed and wanted to come back later in the summer.

The rumor mill was very strong that they would wait until August to come back into session after they saw what the tax income would be for the State (since an extension was provided to file tax returns until July 15<sup>th</sup>). Everyone thought that it would be difficult for them to make decisions or even operate at the legislature at the time without the financial information from the tax returns. However, the Legislature did indeed return at the end of May to start the short session. The focus clearly was on needs related to COVID-19 and the various repercussions and statutes and rules that must be modified in our now socially distancing world. Very little legislation was moved that was active in the long session as bill after bill was placed in committee only to be stripped out and changed into a bill regarding funding, testing, healthcare changes, or other related issues. As time went on the bi-partisan nature of their earlier session faded away and they fell back into the old routine of blaming each other and questioning each other’s every motive and decision. Wearing masks became a touch point with many Republicans not wanting to wear masks (not all) and almost deriding those who did and many Democrats



## NORTH CAROLINA COLLEGE OF EMERGENCY PHYSICIANS



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wearing masks (again not all) and looking down on those who didn't.

In addition, after much support for the Governor's actions initially, Republicans started to question his every decision, both legally and in the press, and felt that he should re-open the state much sooner. The Governor was adamant that re-opening should happen slowly and only based upon certain criteria and vetoed all bills that would have allowed various businesses to open up or to change the process used to enact emergency orders. There are some legitimate questions about the Governor's emergency power and the role of the Council of State, and I am sure we will see some legislation about that process in the next session.

Meanwhile, during the session, bills were being approved that provided some of the CARES funding for a variety of purposes, including PPE equipment, changes in statutes and rules regarding telehealth, allowing exemptions and delays for a whole host of activities, and health care changes. The initial wave of legislation was approved and then another group of bills that would spend COVID funds was held up and eventually did not move forward. The House had approved most of this spending, but the Senate felt strongly that some funds should be held back until more guidance was issued by the Federal Government about how the funds could be spent. The Senate is hopeful that some of the funds can be used to help with the budget deficit that we all know is coming to North Carolina from the decrease in sales tax and other revenue sources. The session that is planned for September 2<sup>nd</sup> is for either spending the additional funds or trying to use them to pay for budget items. We also may have more funds to spend by then if Congress approves another stimulus bill.

The difficult news ahead for any organization that either receives funds from the General Assembly or is impacted by funding is that there will be reductions in funding and whole programs cut in the next General Assembly. There are no good solutions and even if the economy gets back up and running quickly, we are sure to see some budget pain for a while. The next General Assembly will have a daunting task ahead of them but the big question is, who will be leading that session? The election in November may bring a change to not only the players in both the House and the Senate but also the leadership of each body, with Democrats hopeful that they can reclaim the majority and the Republicans trying to hold onto every seat for dear life.

Before the 2020 short session began, we reached out to legislative leadership and chairs of the House Health Working Group on COVID-19 to discuss the significant concerns and stresses COVID-19 had created in emergency departments. We gave examples of strong leadership and dedication demonstrated by our emergency physicians on the front lines. We also stressed the need for funding for PPE, the benefits of broadening telehealth coverage and reimbursement in North Carolina and the absolute necessity of providing liability protects for physicians and other health care providers during the COVID pandemic. Our concerns were heard and the House Working Group on Health specifically listed many of our recommendations in their list of legislative priorities. Although the Senate ultimately did not agree with the House's recommendation on expansion of telehealth coverage and reimbursement, COVID took care of that a little bit with Blue Cross and Medicaid agreeing to pay parity reimbursement for telehealth services. The Legislature did pass significant health policy legislation this session.

Examples of legislation adopted include: the funding of a Medicaid rebase; new start date for the commencement of Medicaid transformation (July 2021); and various appropriations to support the State's response to COVID. Legislators also adopted a bill to exempt direct primary care physicians from being regulated by the Department of Insurance and a bill that requires insurance

companies to grant patients expedited access to medications that best fit their medical needs. They also adopted legislation that would expand the types of mental health providers that are allowed to conduct first-level evaluations for involuntary commitment. We worked hard to make sure that legislators did not move forward on any sort of restrictions to balanced billing as they had filed in Senate Bill 386.

As our efforts on expanded telehealth coverage and reimbursement continue, we look forward to sharing supportive data and testimonials arising from the extensive need and use of telehealth during the pandemic. The more we can show the benefits of telehealth to legislators, the better position we will be in 2021 to get the Senate on board with legislation supportive of expanded telehealth coverage.

We will also want to look at temporary rules and other regulations that were set aside during the pandemic to determine some that we may want to make more permanent in the 2021-2022 session. Rules on telehealth, witnesses for Do Not Resuscitate Orders and many others will be discussed once the dust settles.

We have been honored to work with the North Carolina College of Emergency Physicians and its leadership and members during this extraordinary legislative session and look forward to our continued work together during the 2021-2022 session. Please feel free to reach out if you have any questions.

### LEGISLATION ENACTED

HOUSE BILL 118, COVID-19 Liab. Safe Harbor. This legislation provides limited immunity from liability for claims based on transmission of coronavirus disease 2019 (COVID-19) and will:

- define the following:
  - *COVID-19* as the disease caused by the SARS-CoV-2 virus; and
  - *person* as an individual; corporation; nonprofit corporation; business trust; estate; trust; partnership; limited liability company; sole proprietorship; association; joint venture; government; governmental subdivision, agency, or instrumentality; public corporation; or any other legal entity;
- provide that, in any claim for relief arising from any act or omission alleged to have resulted in the contraction of COVID-19, including any claim based on a violation of this section, no person could be liable for any act or omission that does not amount to gross negligence, willful or wanton conduct, or intentional wrongdoing;
- require every person to provide, with respect to any premises owned by the person or under the person's possession, custody, or control, reasonable notice of actions taken by the person for the purpose of reducing the risk of transmission of COVID-19 to individuals present on the premises, except for premises owned by an individual that are not used in the operation of a sole proprietorship.;
- prohibit a person from being liable for the failure of any individual to comply with rules, policies, or guidelines contained in the notice as required;
- provide that these provisions do not apply to claims before the Industrial Commission seeking benefits payable under the Workers' Compensation Act; and
- make these provisions applicable to claims arising no later than 180 days after the expiration or rescission of [Executive Order No. 116](#) issued March 10, 2020 (which declared a state of emergency to coordinate response and protective actions to prevent the spread of COVID-19).

**Effective: July 2, 2020, and applies to claims arising on or after that date.**

HOUSE BILL 158, COVID-19 New Driver Response. This legislation will:

- require the Division of Motor Vehicles (DMV) to waive the requirement that an applicant for a Level 2 limited provisional license pass a road test to obtain the license if the applicant meets all other requirements;
- require a Level 2 limited provisional license holder who receives a waiver under the act to pass a road test prior to obtaining a Level 3 full provisional license;
- provide that the road test waiver provision will expire on the date the DMV resumes administering road tests for Level 2 limited provisional license applicants; and
- deem complete required classroom instruction for students enrolled in classroom driver education between January 2020 and March 16, 2020, who completed at least 15 hours of classroom instruction;
- ensure students who completed less than 15 hours could be offered the opportunity to take a proficiency examination to waive the classroom instruction requirement entirely;
- clarify that behind-the-wheel instruction is not waived for students; and
- authorize public schools to resume driver education programs in accordance with guidance issued by the Department of Public Instruction.

**Effective: June 19, 2020.**

HOUSE BILL 471, Exempt Direct Primary Care from DOI Regs. This legislation clarifies that medical direct primary care agreements are not insurance and excludes the agreements from regulation by the Department of Insurance. The bill would define medical direct primary care agreement to mean a contract in which the primary care provider agrees to provide services to an individual patient for a specified fee and specified period of time, without billing third parties or billing on a fee-for-service basis. The bill requires medical direct primary care agreements to:

- be in writing;
- be signed by the parties to the agreement;
- allow either party to terminate the agreement with written notice to the other party;
- specify the periodic fee for the agreement;
- specify the primary care services that are included in the agreement;
- specify the term of the agreement; and
- include a prominent statement that the agreement is not health insurance.

**Effective: July 1, 2020.**

HOUSE BILL 593, JCPC/Detention/CAA and Other Fee. This legislation makes various changes to the State's law regarding juveniles, indigent support services, and sex offenders, including clarifying that medical treatment and medical billing for inmates housed through the Statewide Misdemeanant Confinement Program who are transferred for medical treatment will operate in the same way as medical treatment and medical billing provided in current law for safekeepers.

**Effective: July 1, 2020, except as otherwise provided.**

HOUSE BILL 1023, Coronavirus Relief Fund/Additions & Revisions. This legislation provides the spending plan for federal coronavirus relief funds in addition to other changes, including:

- transfers \$300 million (was, \$150 million) to the Coronavirus Relief Fund;
- makes various amendments to the allocation of Coronavirus Relief funds already appropriated, effective June 15, 2020, as follows:
  - allocates \$300 million to counties ineligible to receive direct funding from the CARES Act, and requires a county that did not qualify for federal CARES Act funds but receives Office of State Budget and Management (OSBM) relief funds to

- allocate at least 25% to municipalities within the county if consistent with federal law;
- allocates \$7.425 million to the North Carolina Association of Free and Charitable Clinics and clarifying that funds can be used for other costs allowed pursuant to federal guidance in addition to emergency costs;
  - allocates \$7.425 million to the North Carolina Community Health Center Association and clarifies that funds can be used for emergency and other costs allowed pursuant to federal guidance;
  - allocates \$14.5 million to the Department of Commerce for marketing COVID-19 concepts, strategies, and materials;
  - allocates \$2 million to the General Assembly to cover allowable costs incurred as a result of the COVID-19 pandemic;
  - allocates \$750,000 to the Department of Information Technology, Government Data Analytics Center (GDAC) to develop a COVID-19 economic analytics and reporting tool;
  - allocates \$4.8 million to UNC Chapel Hill to be used for the UNC School of Medicine Asheville Campus joint program related to COVID-19 response activities;
  - allocates \$120 million to the Department of Public Safety, Division of Emergency Management to be used as the State match for any Federal Emergency Management Agency public assistance funds provided for the COVID-19 pandemic;
  - allocates \$2.6 million to provide additional funding for NC HealthConnex for COVID-19 related operations and improvements and requires funding bidirectional building data exchanges and patient matching services between NC HealthConnex and the State's other health information systems;
  - allocates \$1 million to the Department of Natural and Cultural Resources to be allocated to the North Carolina Zoological Park for health and safety enhancements related to COVID-19;
  - allocates \$7 million to the Department of Public Instruction to provide personal protective equipment for public schools to facilitate in-person instruction for the 2020-21 school year;
  - allocates \$2 million to UNC Pembroke for the Department of Nursing for specialized training related to COVID-19;
  - allocates \$7 million in equal amounts to Good Hope Hospital, Inc., Lake Norman Regional Medical Center, Cape Fear Valley Health Hoke Hospital, Catawba Valley Medical Center, Davis Regional Medical Center, Carolinas Healthcare System Blue Ridge, and AdventHealth Hendersonville to be used to offset expenses related to patient care from the COVID-19 pandemic. Specifies expenses which may be offset and requires grant recipients to provide a report of expenditures and other matter to relevant legislative committees by December 1, 2020;
  - allocates \$2.5 million to any county designated as a tier two area with a population of less than 150,000 that has a hospital within its borders meeting specified criteria, and directs counties to distribute allocated funds to eligible hospitals to offset expenses related to patient care from the COVID-19 pandemic. Requires grant recipients to provide a report of expenditures and other matter to relevant legislative committees by December 1, 2020. Creates civil liability for counties, county officials, and county employees who misuse funds;
- establishes the COVID-19 Job Retention Program administered by the Economic Investment Committee to:
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- provide one-time grants of up to \$250,000 to a business or nonprofit that retained jobs during and after the COVID-19 pandemic and meets program requirements;
- limit program eligibility to businesses and nonprofits that: (1) employ at least 90% of the number of full-time or equivalent employees during the COVID-19 period in NC as it employed for the pay period ending on or about February 28, 2020; (2) for businesses, have sales for the COVID-19 period that are at least 10% below its sales during the same period in the preceding calendar year, and for nonprofits, gross receipts for the COVID-19 period are at least 10% below its gross receipts for the same period in the preceding calendar year.; and (3) did not participate in the Paycheck Protection Program (PPP), the Main Street Loan Program, or the Rapid Recovery Loan Program;
- define a business to mean an entity subject to income tax, and defines a nonprofit to mean an entity exempt from income tax;
- define the COVID-19 period to mean the period beginning March 1, 2020, and ending May 31, 2020;
- provide for grant awards to be up to two months of the business's average monthly payroll costs, as defined, from the last year plus an additional 25%;
- cap the total of all funds granted under the program at \$15 million;
- direct the Committee to calculate the total amount of grants requested from the applications timely filed and to proportionately reduce each grant award of the total amount requested exceeds this amount; and
- require applications to be filed by September 1, 2020; and
- directs any remaining funds in the Coronavirus Relief Reserve in the General Fund as nontax revenue for the 2020-21 fiscal year if permitted by federal law or guidance, to remain until legislatively appropriated.

**Effective: July 1, 2020, except as otherwise provided.**

HOUSE BILL 1041, 2020 Appointments Bill. This legislation appoints persons to various public offices upon the recommendation of the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

- Melanie A. Neal of Guilford County is appointed to the 911 Board for a term expiring on December 31, 2022, to fill the unexpired term of Michael Reitz.
- Todd B. Bennett of Cabarrus County is appointed to the North Carolina Brain Injury Advisory Council for a term expiring on September 30, 2020, to fill the unexpired term of Dr. Mary Collier.

**Effective: May 2, 2020.**

HOUSE BILL 1043, Pandemic Response Act, appropriates over \$1.5 billion in relief funding in response to the pandemic. The bill passed the House and Senate on May 2<sup>nd</sup> and was signed into law by Governor Cooper on May 4<sup>th</sup>. The bill would allocate the funds as follows:

**Economic Recovery**

- \$125M for Golden LEAF for small business loan assistance;

**PPE, Testing & Tracing**

- \$50M for supplies, equipment and PPE, divided among the NC Healthcare Foundation (50%), NC Senior Living Association and NC Health Care Facilities Association in equal amounts (15%), NC Medical Society (10%), and the Division of Emergency Management (25%);

- \$25M to DHHS to expand public and private initiatives for COVID-19 testing, contact tracing, and trends tracking and analysis;
  - Disallows funding for testing, contact tracing and trends tracking until DHHS satisfies certain requirements, including diagnostic service reporting, posting of COVID-19 vendors contracted with, and reporting on certain COVID-19 impact data;

### **COVID-19 Research**

- \$100,000 for the General Assembly to reimburse funds to Wake Forest University Health Services for COVID-19 research data for future legislative committees;
- \$15M for the Duke University Human Vaccine Institute;
- \$29M to UNC Chapel Hill to allocate to the NC Policy Collaboratory;
- \$15M to the Brody School of Medicine at ECU;
- \$6M for Campbell University School of Osteopathic Medicine;
- \$20M to Wake Forest University Health Services to expand COVID-19 study;

### **Hospital Funding**

- \$65M to NC Healthcare Foundation for grants to hospitals designated by the Center for Medicare & Medicaid Services as critical access hospitals or non-critical access rural hospitals to offset response care for COVID-19;
- \$15M for grants to hospitals classified as teaching hospitals by the Centers for Medicare & Medicaid Services;
- \$15M for hospitals not eligible for other grants;

### **Department of Health and Human Services**

- authorize DHHS to provide Medicaid coverage for COVID-19 Testing for certain uninsured individuals during the declared nationwide public health emergency period where the federal medical assistance percentage is 100%;
- **require DHHS to provide a 5% increase in the Medicaid Fee-For-Service rates paid to all provider types effective 3/1/20;**
- pause certain requirements pertaining to provider enrollment for Medicaid and Health Choice Programs beginning 3/1/2020;
- \$20M to DHHS for increasing nurses, community health workers, telehealth services, infection control support in nursing and adult care homes and diverting behavioral health emergencies;
- \$6M to DHHS to allocate equally among each of the state's six food banks;
- \$25M to DHHS for State-County Special Assistance-licensed facilities to offset increased costs of serving residents during the COVID-19 emergency;
- \$50M to DHHS for rural and underserved communities. This funding includes enhanced Telehealth services;
- \$5M to the NC Community Health Centers Association for cost of eligible health services provided during the COVID-19 emergency;
- \$20M to DHHS to provide funds to support behavioral health and crisis services to respond to COVID-19. \$12.6 million of this funding will provide support for Intermediate Care Facilities. Funding will also be used to divert individuals experiencing behavioral health emergencies from emergency departments;
- \$1.8M to Old North State Medical Society for rural and African American communities to address COVID-19 disparities;
- \$2.25M to Division of Social Services (DHHS) for serving children in foster care in the amount of \$100 per child per month for April through June 2020;

## **Education**

- \$75M to DPI for school nutrition services provided in response to COVID-19;
- \$12M to DPI for improving Internet connectivity;
- \$35M to DPI for computers or other electronic devices;
- \$4.5M to DPI to establish a shared cybersecurity infrastructure;
- \$10M to DPI for school health support personnel for physical and mental health support services for students in response to COVID-19, including remote services;
- \$70M to DPI for a supplemental summer learning program in response to negative effects of COVID-19;
- \$4.5M to DPI for remote instruction and nondigital remote instruction resources;
- \$15M to DPI for costs of providing Extended School Year Services or future services for exceptional children;
- \$5M to DPI for the Extended Learning and Integrated Student Supports Competitive Grant Program;
- \$25M to Community Colleges;
- \$44.4M to Board of Governors of UNC;
- \$20M for private postsecondary institutions to transition to online education;

## **State & Local Government**

- \$150M for counties ineligible to receive direct funding from the CARES Act;
- \$70M for continuity of operations of State government;
- \$300M for the General Maintenance Reserve in the Highway Fund if federal guidance is revised to allow the use of funds for revenue replacement;
- \$20M for allocation to State agencies negatively impacted by loss of anticipated receipts, if federal guidance is revised to allow the use of funds for revenue replacement;
- \$15M for animal depopulation and disposal;
- \$5M to develop safe travel concepts and strategies and research tools and analysis needed for implementation; and
- \$9M to the Department of Information Technology for funding the remaining portion of all qualifying GREAT program applications (expanding broadband).

**Effective: May 4, 2020.**

HOUSE BILL 1053, PED/Military OL & Audiology Interstate Compct. This legislation was recommended by the Joint Legislative Program Evaluation Oversight Committee concerning occupational licensure for military spouses and includes the following:

- requires a board to issue a license, certification, or registration no later than 15 days to a military-trained applicant or military spouse that has satisfied the requirements for licensure, and would shorten the time period for a board to provide notice to an applicant from 30 days to 15 days if that applicant's training or experience does not satisfy the requirements for licensure, or if a pending complaint in another jurisdiction constituting grounds for denial of licensure in this State exists. Similarly, a board would be required no later than 15 days, issue a temporary practice permit to an applicant who is licensed, certified, or registered in another jurisdiction while they are satisfying the requirements for licensure; and
- requires boards and the Secretary of the Department of Military and Veteran Affairs to publish certain information on their respective websites related to veterans and military spouses and require boards to submit electronically each year, relevant data related to the numbers of applicants, number of licenses granted, and reasons for denial as it pertains to military-trained individuals and military spouses in an annual report.



**Effective: December 1, 2020, and applies to applications for licensure received on or after that date.**

HOUSE BILL 1063, Fund VIPER Tower Hardware Upgrades. This legislation provides over \$19.8 million from the Coronavirus Relief Fund to the Department of Public Safety for tower hardware upgrades to the Voice Interoperability Plan for Emergency Responders (VIPER) network. **Effective: July 1, 2020.**

HOUSE BILL 1064, GSC Clarifying Bingo License Statute. This legislation transfers bingo game licensure, oversight and administration responsibilities relating to bingo games from the State Bureau of Investigation to the Alcoholic Law Enforcement Division of the Department of Public Safety.

The legislation also amends the rules of Civil Procedure and the Criminal Procedure Act to clarify that good cause includes any service carrying out any duties as a member of the General Assembly, and expands good cause to also include service on any other board, commission, or authority as an appointee of the Governor, Lieutenant Governor, or the General Assembly. **Effective: The bingo provisions are effective July 1, 2020, and the good cause provisions are effective December 1, 2020.**

HOUSE BILL 1080, Revenue Laws Recommendations. This legislation makes various changes to the State's revenue laws, including:

- updates North Carolina's Code reference from January 1, 2019, to May 1, 2020, to conform the State to the reduction of the threshold amount for the medical expense deduction from 10% to 7.5% for the 2019 and 2020 tax years and to the exclusion from gross income of any amount of indebtedness forgiven on a loan covered under the Paycheck Protection Program, as well as conform to changes made by Congress to retirement funds and 529 plans;
- decouples from the federal government various provisions including: the increase of the percentage of a taxpayer's adjusted taxable income that factors into the calculation of the limitation on deduction of business interest; deductions of qualified charitable contributions; income exclusion for forgiveness of debt on primary resident; mortgage insurance deductible as mortgage interest; deduction for tuition and expenses; modifications for net operating losses;
- requires full taxpayer identification numbers when tax documents are filed with the Department of Revenue. The IRS allows truncated identification numbers on certain tax documents to protect taxpayer identity. A truncated taxpayer identification number (TTIN) is a social security number or other identification number where the first 5 digits are omitted (e.g., XXX-XX-1234). The IRS requires full identification numbers when tax documents are filed with the IRS;
- clarifies that a taxpayer conference may only be rescheduled upon mutual agreement of the Department and the taxpayer;
- distinguishes between the criminal and civil liability of a responsible person in a business entity. Current law provides that each responsible person in a business entity is personally and individually liable for the principal amount of taxes owed by the business entity, and that certain offenses, such as embezzlement of funds, identity theft, and forgery, are crimes under the jurisdiction of the Department. This section clarifies that the civil tax liability statute has no applicability to the criminal liability of a person;
- allows the Department of Revenue to use up to \$500,000 of the collection assistance fee to update its electronic tax systems to store and recognize power of attorney registrations;

- extends the sunset for individual taxpayers to donate all or a portion of their State tax refunds to aid in the early detection of breast cancer and cervical cancer to January 1, 2026;
- directs the State Controller to transfer \$36 million in nonrecurring funds for FY20-21 from the Medicaid Transformation Reserve to the General Fund. The appropriation is equal to the estimated fiscal impact of the State's conformity to the lower 7.5% threshold for the medical expense deduction.

**Effective: June 30, 2020, except as otherwise provided.**

HOUSE BILL 1169, Bipartisan Elections Act of 2020. This legislation enacts a variety of changes to the laws related to elections and appropriates funds to the State Board of Elections in response to the coronavirus pandemic. Although usually any type of elections bill is highly partisan, this bill was supported by both parties in a rare show of cooperation. The legislation will:

- for the 2020 general election, allow for one witness for the casting of absentee ballots, provide flexibility in the filling of positions for precinct officials, provide for voter assistance by individuals working as part of multi-partisan teams, and allow for completed absentee request forms to be e-mailed or faxed to county boards of elections;
- direct the Department of Health and Human Services and the State Board of Elections to develop guidance to safely allow multi-partisan teams to assist registered voters within hospitals, clinics, nursing homes, assisted living or other congregate living situations in the 2020 elections during the COVID-19 pandemic, and to report no later than August 1, 2020, to the Joint Legislative Oversight Committee on General Government, the Joint Legislative Elections Oversight Committee, and the Governor on the details of the guidance;
- require applications for absentee ballots to have a bar code allowing the county board of elections and the voter to track a voted ballot following its return to the county board;
- provide an additional two weeks for county boards of elections to approve applications for absentee ballots;
- clarify that voters may call the State Board or a county board of elections and request a blank absentee ballot request form be sent to the voter by mail, e-mail, or fax;
- prohibit the State Board or its Executive Director from delivering absentee ballots to a voter who did not submit a valid request form or ordering an election using all mail-in absentee ballots;
- require the State Board to create an online portal for voters to submit online requests for absentee ballots by September 1, 2020;
- create a Class I felony for any member serving on or employed by the State Board or a county board of elections to knowingly send or deliver an unrequested absentee ballot;
- allow for special identification cards for nonoperators issued by the Division of Motor Vehicles (DMV) to be renewed online.
- allow for government-issued public assistance cards to be accepted for photo identification for voting identification; and
- appropriate funds to the State Board of Elections to respond to COVID-19.

**Effective: June 12, 2020, except as otherwise provided.**

HOUSE BILL 1229, Unemployment Insurance Program Integrity. This legislation provides \$2 million to the Department of Commerce, Division of Employment Security (DES), to contract with the Government Data Analytics Center to: (1) enhance existing unemployment insurance (UI) fraud and compliance alerting capability to prevent and detect cybersecurity attacks on DES information technology assets and resources during the pandemic; (2) provide DES with COVID-19 related program fraud detection analytics and information reporting; (3) provide pandemic UI assistance documentation analysis; and (4) enhance economic modeling for underground economy analysis with COVID-19 claims. **Effective: June 30, 2020.**

SENATE BILL 168, Department of Health and Human Svcs. Revisions, was vetoed on July 6<sup>th</sup>. This bill would have addressed the appropriation schedule for federal block grants made to NCDHHS as well as other provisions related to the department. The bill was not controversial as it went through the General Assembly, but then attracted significant media attention and even protests because of a provision that would have changed how public records are dealt with at the Office of the Chief Medical Examiner, as it shielded law enforcement records from the public that were in the possession of the medical examiner. **Vetoed: July 6, 2020. Although initially the Governor worked with the legislature to move a bill that would have fixed this controversial language, the legislature could not assure that the bill would be approved so the Governor vetoed the bill. The other provisions of this bill were also stopped as a result of the veto. Please see Senate Bill 232 summary for further explanation.**

SENATE BILL 208, COVID-19 Immunity/IHEs. This legislation grants limited immunity for institutions of higher education (IHE) for claims related to tuition and fees paid for the spring 2020 semester that arise from alleged acts or omissions taken by the IHE in response to COVID-19. IHEs may assert this immunity if the alleged acts or omissions were reasonably related to protecting the public health, safety, or welfare in response to COVID-19 executive orders or guidance from the Centers for Disease Control and Prevention, and if the IHE offered remote learning options for students to complete spring semester coursework. IHEs may not assert this immunity for losses or damages resulting solely from breach of an express contractual provision that allocated liability in the event of a pandemic, or if the losses or damages were caused by an act or omission that was in bad faith or malicious. The Article is limited to alleged acts or omission occurring between March 10, 2020, to June 1, 2020. **Effective: July 1, 2020, and applies to all actions commenced on or after March 27, 2020.**

SENATE BILL 232, Repeal Death Invest Conf/Masks/Health & Safety. This legislation removes the controversial language from Senate Bill 168 involving death investigations records. Senate Bill 168 caught attention after passing both chambers for a portion of the bill which would prevent “all information and records provided by a city, county, or other public entity to the Office of the Chief Medical Examiner, or its agents, concerning a death investigation” from becoming public record unless the records “otherwise constituted public records while in the possession of the city, county, or other public entity.” This otherwise uncontroversial bill, which would add some technical modifications to laws pertaining to the Department of Health and Human Services and its block grant funding, passed nearly unanimously in the House and Senate before the controversy began.

This new law also removes the August 1st expiration date on the suspension of the state’s mask laws, in order **to allow individuals to continue to wear masks for public health reasons indefinitely**. The state’s mask laws date back to the 1950s, when NC originally passed the law to target KKK members by forbidding masks in public. **Effective: July 10, 2020.**

SENATE BILL 361, Healthy NC. This legislation:

- implements the Psychology Interjurisdictional Licensure Compact, which seeks to increase public access to professional psychological services by allowing tele-psychological practice across state lines and temporary in-person, face-to-face services into a state in which the psychologist is not licensed to practice. The law also establishes rules for its operation effective March 1, 2021;
- expands the providers eligible to perform the first commitment examinations for involuntary commitment of individuals with mental illness or substance use disorders required by law to include licensed marriage and family therapist, except when the individual to be examined is married to a patient of the therapist;

- changes adult care home inspections to limit double citations;
- changes the statute regarding step therapy protocols by:
  - expanding the application of the statute to an insurer that maintains one or more closed formularies for or restricts access to covered prescription drugs or devices and an insurer that requires an enrollee in a plan with an open or closed formulary to use a prescription drug or sequence of prescription drugs, other than the drug the enrollee's health care provider recommends, before the insurer provides coverage for the recommended prescription drug;
  - requiring the insurer to update protocols based on a review of new evidence, research, and newly developed treatments;
  - removing the requirement providing coverage for a restricted access drug or device to an enrollee without requiring prior approval or use of a nonrestricted formulary drug under certain conditions;
  - modifying the requirements for an exception process to require that an enrollee or the enrollee's prescribing provider be allowed to obtain, without penalty or additional cost-sharing, coverage for a specific nonformulary drug or device under certain circumstances;
  - requiring the exception request to be granted if the prescribing provider submitted justification and clinical documentation demonstrate five specified qualifications; and
  - clarifying that samples and patient incentive programs don't qualify as trial and failure of an insurance-preferred drug or device;
- corrects the name of the North Carolina Community Health Center Association (NCCHCA), which was previously allocated \$5 million in CARES funding for health center costs related to COVID-19; and
- specifies the activities the funding for NCCHCA can cover, including supplies and equipment, training, retrofitting clinic areas, transporting patients and planning, training and implementing telehealth.

**This bill originally included telehealth parity language that was dropped from this version as too controversial. Interestingly enough, both NC through Medicaid and many private insurance companies have provided telehealth parity as a result of COVID-19, so we will have to see if these policies can be turned into law and enacted long term. Effective: July 1, 2020, except as otherwise provided.**

SENATE BILL 562, The Second Chance Act. This legislation makes a variety of changes to the State's expungement laws and was languishing in committee until the George Floyd murder and protests that occurred in NC and around the country. The bill then moved quickly and received a great deal of support, the bill includes provisions that will:

- allow for the expunction of a misdemeanor or Class H or I felony conviction if the crime was committed before December 1, 2019 and was committed by a person after their sixteenth birthday but before the person's eighteenth birthday;
- require the petition for expungement to be filed in the county of conviction and the petition may be filed by either the person convicted of the crime or the district attorney;
- require a person, in order to qualify for this expungement, to have completed any active sentence, period of probation, or post-release supervision that may have been ordered by the sentencing court and to not have any outstanding restitution owed for the offense that is being expunged;
- provide that this new expungement provision does not apply to motor vehicle law violations (including impaired driving) or to offenses requiring registration as a sex offender under North Carolina's Sex Offender Registry laws;

- provide that the new expungement provision for misdemeanor or Class H or I felony offenses committed before December 1, 2019 is enacted to ensure juveniles that were convicted of these offenses are treated the same as juveniles being charged with these offenses after December 1, 2019. For juveniles committing these offenses after December 1, 2019, their cases will be heard in juvenile court (unless transferred to superior court) and therefore the crime will not appear on a criminal record but will instead be considered an adjudication of delinquency if the juvenile is found to have committed the crime;
- remove the requirement that a court conduct a hearing prior to entering an order of expungement for criminal charges that are dismissed or where there is a finding of not guilty, and allow a person with a prior felony conviction to obtain an expungement of any criminal charge that is dismissed or where there is a finding of not guilty;
- create a new category of automatic expunction “by operation of law” of any dismissal or finding of not guilty occurring on or after this date for any misdemeanor or felony charges, excluding a felony charge that is dismissed pursuant to a plea agreement, and allow for an unlimited number of expungements based on the charges being dismissed or the defendant being found not guilty on or after December 1, 2021;
- allow an arresting agency to maintain investigative records relating to the criminal charge that is automatically expunged “by operation of law” due to a dismissal or finding of not guilty;
- require the Administrative Office of the Courts to develop the procedures by which these records will be expunged automatically without review by a court.
- allow prosecutors and law enforcement agencies to access these expunged records through the Administrative Office of the Courts;
- allow for the expungement of more than one nonviolent misdemeanor conviction after a seven-year waiting period if the person has had no further misdemeanor or felony convictions (excluding traffic violations) during that seven-year period. Currently, a person may obtain an expungement for one nonviolent misdemeanor conviction after a five-year waiting period with no further misdemeanor or felony convictions occurring during that five-year waiting period. In addition, current law also provides for the expungement of one nonviolent felony.

**Effective: Most of the provisions are effective December 1, 2020, and apply to petitions filed on or after that date. The provisions regarding expunction of records of offenders under the age of 18 at the time of commission of certain misdemeanors and felonies upon completion of the sentence are effective December 1, 2019, and apply to offenses committed before that date.**

SENATE BILL 681, Agency Policy Directives/2019-2020. This legislation contains a number of provisions relating to government agencies and various law or rule changes. Of particular interest are provisions that will:

- make changes to enrollment priority policies at charter schools;
- make changes to the pilot on advanced teaching roles;
- expand the eligibility requirements for need-based scholarships for students attending private institutions of higher education to now include students who are dependent relatives of a veteran who is living in the State and dependent relatives of an active duty member of the Armed Forces who is living in the State incident to active military duty; and
- modify the State graduation requirements to include one required credit in arts education, to be completed any time in grades 6 through 12 beginning with students entering the sixth grade in 2022;

- require the UNC System Office, in collaboration with the North Carolina Community College System through the Military Credit Advisory Council, to create a searchable database of military credit equivalencies;
- authorize the Secretary of Health and Human Services to waive the 15% cap on the number of Special Assistance in-home payments until June 30, 2021;
- establish Medicaid coverage annual income levels;
- direct NCDHHS to issue Medicaid identification cards to recipients on an annual basis;
- until coverage under tailored plans begins, require the NCDHHS to ensure that LME/MCOs utilize out-of-network agreements between a single provider of behavioral health or intellectual and developmental disability services and the LME/MCO to ensure access to care;
- require LME/MCOs to transfer \$18,028,217 to the Department of Health and Human Services, Division of Health Benefits in the 2020-2021 fiscal year;
- require the NCDHHS to report by December 1, 2020 and 2021 on utilization of local inpatient psychiatric beds and initiatives to reduce State psychiatric hospital use;
- require NCDHHS to report annually until 2026 on utilization of inpatient alcohol and substance abuse treatment services; and
- allocate the funds for Caitlyn's Courage to the Department of Public Safety instead of the Administrative Office of the Courts.

**Effective: July 1, 2020.**

SENATE BILL 704, Covid-19 Recovery Act. This legislation provides a number of policy changes in unemployment, tax reform, education, health care and government operations to address the pandemic. The bill was approved by both the House and Senate on May 2<sup>nd</sup> in a bipartisan vote and signed into law by Governor Cooper on May 4<sup>th</sup>. The bill includes the following provisions:

### **Economic Support**

- adjusts tax filings to align with the federal changes and waives interest on certain payments;
- affirms the unemployment changes implemented through executive order;
- makes it easier for a claimant to satisfy one of the required weekly job contacts;
- makes it easier for employers to file attached claims for their employees;

### **Education**

- clarifies or modifies various testing requirements, including EOGs, EOCs, the ACT, assessments for grades K-3, and WorkKeys;
- waives the requirements for calculation and display of school report cards;
- waives identification of new low-performing schools and maintains identifications based on 2018-2019 data;
- repeals the requirement that a new school be selected for the Innovative School District (ISD) based on data from the 2019-2020 school year;
- waives Read to Achieve requirements for third graders, allowing principals to make promotion decisions like for other grades, and cancels summer reading camps;
- requires that incoming fourth graders receive a reading assessment within 10 days of the start of the 2020-2021 school year;
- waives the CPR graduation requirement for students to graduate;
- allows remote instruction to satisfy instructional time requirements and waives attendance requirements beginning March 16, 2020;
- requires public schools to submit remote instruction plans for the 2020-2021 school year to the State Board of Education by July 20, 2020;

- requires school calendars for the 2020-2021 school year to begin August 17 and include 190 days of instruction including 5 remote instruction days;
- provides a 6-month extension for school improvement plans set to expire at the end of the 2019-2020 school year;
- permits annual teacher evaluations from the 2019-2020 school year to be based on observations completed prior to March 13, 2020, and evidence from the 2019-2020 school year;
- waives testing, attendance and calendar requirements for nonpublic schools;
- allows late disbursements from the Opportunity Scholarship Program;
- makes temporary changes to Educator Preparation Programs (EPPs), school administrator prep program requirements and transforming principal prep program requirements;
- provides one-year extensions for teachers, administrators and school professionals to meet licensure requirements set by the State Board, including continuing education requirements;
- prevents UNC institutions from accruing or charging interest to a past due account held by a student between March 13, 2020, and September 15, 2020;

## **Health**

- directs the Division of Public Health (DPH) and the Division of Health Service Regulation (DHSR), in conjunction with Division of Emergency Management to develop a plan for creating and maintaining a strategic state stockpile of personal protective equipment (PPE) and testing supplies;
- amends the Dental Practice Act to give the Board of Dental Examiners the authority to waive requirements during a declared state of emergency;
- allows dentists to administer COVID-19 diagnostic and antibody tests;
- creates a process to allow immunizing pharmacists to administer COVID-19 vaccines if one is approved;
- allows pharmacists to temporarily use the visual inspection of any government-issued photo I.D. or existing records to identify patients picking up prescriptions;
- allows for flexibility under supervision requirements for physician assistants and nurse practitioners;
- charges the North Carolina Area Health Education Center (NC AHEC) with studying the issues that impact health care delivery and the health care workforce during a pandemic;
- provides immunity to volunteer organizations for damages that occur at their facilities unless there was willful or intentional misconduct, gross negligence, reckless misconduct, or intentional infliction of harm on the part of the volunteer organization.
- allows licensed hospitals, nursing homes, and clinics to dispense controlled substances at additional business locations, provided they followed a registration process developed by the Division of Mental Health, Developmental Disabilities and Substance Abuse Services;
- requires healthcare providers to report the results of COVID-19 testing performed prior to non-emergency surgery to the Commission for Public Health;
- extends the deadline from June 1, 2020, to October 1, 2021, for most providers and entities to begin submitting demographic and clinical data to the Health Information Exchange Network and make other conforming changes;
- temporarily waives the requirement that all child care providers complete a fingerprint-based criminal history check every three years;
- suspends all annual inspections, regular monitoring requirements, and adopted rules for licensed facilities for persons with disabilities or substance use disorders, adult care homes, hospitals, health care facilities licensed under Article 6 of Chapter 131E, and hospices;

- increases training for facilities with a recent record of noncompliance with rules or CDC guidelines regarding infection control or the proper use of personal protective equipment;
- temporarily allows the first and second examinations related to involuntary commitment to be conducted via telehealth;
- The telehealth parity provision that was in the House version of the bill was NOT included in the final bill, and we understand that issues regarding telehealth will be discussed in an upcoming session;
- urges the Centers for Medicaid and Medicare to provide coverage for health care provided through audio-only communication under the Medicare program in order to reduce barriers and increase access to health care for older adults.

**Immunity:** The next provision provides immunity for the healthcare system, including hospitals and providers. The purpose of this section is to promote the public health, safety, and welfare of all citizens by broadly protecting the health care facilities and health care providers in this State from liability that may result from treatment of individuals under conditions resulting from circumstances associated with the COVID-19 public health emergency. The immunity is from economic or non-economic losses for harm to an individual and includes individuals licensed under Chapter 90 of the General Statutes, any emergency medical services personnel, any individual who is employed as a health care facility administrator, executive, supervisor, board member, trustee, or other person in a managerial position or comparable role at a health care facility and an agent or employee of a health care facility that is licensed, certified, or otherwise authorized to provide health care services.

- Immunity is provided to any health care facility, health care provider, or entity that has legal responsibility for the acts or omissions of a health care provider shall have immunity from any civil liability for any harm or damages alleged to have been sustained as a result of an act or omission in the course of arranging for or providing health care services only if all of the following apply:
  - The health care facility, health care provider, or entity is arranging for or providing health care services during the period of the COVID-19 emergency declaration, including, but not limited to, the arrangement or provision of those services pursuant to a COVID-19 emergency rule.
  - The arrangement or provision of health care services is impacted, directly or indirectly:
    - By a health care facility, health care provider, or entity's decisions or activities in response to or as a result of the COVID-19 pandemic; or
    - By the decisions or activities, in response to or as a result of the COVID-19 pandemic, of a health care facility or entity where a health care provider provides health care services.
  - The health care facility, health care provider, or entity is arranging for or providing health care services in good faith.
- The immunity from any civil liability provided in subsection (a) of this section shall not apply if the harm or damages were caused by an act or omission constituting gross negligence, reckless misconduct, or intentional infliction of harm by the health care facility or health care provider providing health care services; provided that the acts, omissions, or decisions resulting from a resource or staffing shortage shall not be considered to be gross negligence, reckless misconduct, or intentional infliction of harm.



## Continuity of Government

### Notaries

- allows, until August 1, 2020, a notary to perform acknowledgments and administer oaths and affirmations through the use of video conference technology if the notary and principle are physically present in North Carolina at the time of notarization and provided certain requirements are met;
- extends for 45 days the time a notary applicant granted a commission by the Secretary of State after March 9, 2020, and before August 1, 2020, to appear before a register of deeds and take the general oath of office;
- authorizes a register of deeds to administer the required oath to such appointee using video conference technology;

### Legal Provisions

- allows a person to witness a principal sign a document by using video conference technology if the technology allows for direct, real time audio and video interaction between the principal and the witness;
- clarifies that any signature required for the issuance of a search warrant or judicial order issued following a court hearing conducted by remote audio or visual transmission in a civil or criminal case, may be signed by use of an electronic signature until August 1, 2020;
- amends the statutes related to Health Care Powers of Attorney and Advanced Directives for a Natural Death to waive the requirement that the principal's signature be executed in the presence of two qualified witnesses as long as the document is signed by the principal and properly acknowledged before a notary and would apply to those documents executed prior to termination of the State of Emergency;
- allows a sheriff to serve process on a resident of a long-term care facility during a declared state of emergency for public health reasons by leaving a copy of the notice of hearing and petition with the employee of the facility who is in charge;
- allows a settlement agent in a real estate transaction involving a one to four family residential dwelling or a lot restricted to residential use to disburse closing funds from the settlement agent's trust or escrow account prior to recording the deeds, deeds of trust, and any other required loan documents in the office of the register of deeds upon the written consent of the parties involved;
- authorizes each Register of Deeds to issue a license for marriage via remote audio-video communication provided the register of deeds can positively identify each applicant and extend the validity of the license to 120 days;
- **provides time-limited civil liability immunity to essential businesses for injuries or death resulting from customers or employees contracting COVID-19 at the business;**
- authorizes the Chief Administrative Law Judge to extend the time period for the filing of petitions for contested cases, but only if the Chief Justice of the North Carolina Supreme Court has determined that catastrophic conditions exist;
- allows a chief district court judge, until August 1, 2020, to modify an order of confinement or imprisonment in a local confinement facility if certain conditions exist;
- **clarifies that masks may be worn on certain public and private premises to ensure the physical health or safety of the wearer or others, but require the wearer to remove that mask upon the request of a law enforcement officer during a traffic stop or when the officer has reasonable suspicion or probable cause during a criminal investigation.**

## State Government

- extends for five months the validity of any credential issued by the Division of Motor Vehicles that expires between March 1, 2020, and before August 1, 2020, and waives fines, fees, and penalties associated with failing to renew an extended credential;
- delays the DMV Headquarters move that was required by the General Assembly;
- allows private security guards at state prisons to detain and use necessary force pursuant to those policies to prevent contraband entry and inmate escape;
- permits release of communicable disease health information by DHHS or a local health department to a law enforcement official for certain public health situations;
- authorizes the State Treasurer, with approval of the Board of Trustees for the State Health Plan, to give certain members or employing units the option to defer premium or debt payment when there is a state of disaster or emergency;
- authorizes a State agency to waive any interest due on a past due account receivable;
- provides for the rescheduling of public hearings during temporary rule making;
- makes changes to required local government financial filings and procedures;
- reauthorizes counties and municipalities to issue special obligation bonds and notes;
- authorizes official meetings of public bodies including closed sessions, public hearings, and quasi-judicial hearings to be conducted via remote, simultaneous communication during periods of declarations of emergency and clarifies that counties and cities may meet via simultaneous communication;
- directs State agencies to exercise regulatory flexibility during the Coronavirus emergency to protect the wellbeing of citizens; and
- extends until July 15, 2020, any report required to be submitted after March 10, 2020, but before July 15, 2020, to a joint legislative oversight committee of the General Assembly.

**Regulatory Flexibility:** Senate Bill 704 includes an authorization to state agencies to exercise regulatory flexibility during the coronavirus emergency in order to protect the economic well-being of North Carolinians and state businesses. It would allow state agencies to (1) delay collection of or modify collection of any fees, fines, or late payments assessed by the agency, (2) delay the renewal dates of permits, licenses, and similar certifications, registrations, and authorizations issued by the agency, and (3) delay or modify any educational or examination requirements implemented by the agency. It would require the state agency to determine that the action is in the public interest due to the impacts of the Coronavirus. The provision would exclude the Division of Employment Security of the Department of Commerce, the Department of Health and Human Services, the State Board of Education, the Department of Public Instruction, The University of North Carolina, the State Board of Community Colleges, or the State Board of Elections – meaning this flexibility would not be provided to those agencies, but would to all others. It would require agencies to report by October 1, 2020, to specified NCGA committees and commissions and OSBM on its efforts to exercise such regulatory flexibility. It would authorize agencies to adopt emergency rules for implementation, and would retroactively go into effect for March 10, 2020. Aside from the reporting requirement, this would expire on August 1, 2020.

**Effective: May 4, 2020, except as otherwise provided.**

SENATE BILL 739, Personal Delivery Device/PDD/Delivery Robots. This legislation enacts new provisions regulating personal delivery devices (PDD) and companies, including provisions to:

- define a “personal delivery device” as an electrically powered device intended for transporting cargo that is equipped with automated driving technology that enables device operation with or without the remote support and supervision of a human and that does not exceed (i) a weight of 500 pounds, excluding cargo, (ii) a length of 40 inches, and (iii) a width of 30 inches;

- specify that only business entities (such as a corporation or limited liability company) may operate a PDD in a pedestrian area, such as a sidewalk, at 10 miles per hour or less, or on the shoulder of a highway at 20 miles per hour or less;
- define an operator of a PDD as any person that is 16 years of age or older that is responsible for the monitoring and operation of the PDD, and is authorized by the business entity that owns the PDD to operate the device;
- prohibit PDDs from being operated on a highway with a speed limit greater than 35 miles per hour and provide that they may only be operated on a highway in order to cross a highway or to travel along a highway when there is no available or accessible sidewalk;
- require the device to be monitored by an operator who is able to exercise remote control over the device;
- require all traffic and pedestrian control devices and signs to be obeyed;
- require the device to yield the right of way to all human pedestrians and to not unreasonably interfere with any vehicle or pedestrian;
- prohibit the device from transporting hazardous materials;
- require the device to be equipped with: (1) a marker clearly stating the contact information of the owner; (2) a breaking system allowing the device to come to a controlled stop; and (3) front and rear lights when operating at night that are visible from at least 500 feet on all sides of the device.
- make it an infraction for a violation any of these provisions;
- allow local governments to regulate the time and place of the operation of PDDs;
- require PDDs to be insured; and
- specify that PDDs are not included in the term “motor vehicle” unless they exceed a weight of 750 pounds, excluding cargo, exceed a length of 40 inches when not linked with other devices, and exceed a width of 36 inches.

**Effective: Except as otherwise provided, December 1, 2020, and applies to offenses committed on or after that date.**

SENATE BILL 808, Medicaid Funding Act, was signed into law on July 2<sup>nd</sup> and finally allows the Medicaid Transformation to proceed in North Carolina changing from fee for service to managed care. The legislation also includes a variety of funding for COVID-19 that comes from the Federal CARES act. The new law:

- sets a July 1, 2021 date for implementation of the shift to Medicaid managed care;
- allows for four-year contracts for health plans participating in managed care;
- revises the supplemental payment program for providers to conform with managed care;
- changes hospital assessments related to Medicaid transformation;
- applies the gross premium tax to prepaid health plans to help fund Medicaid;
- establishes processes to determine Medicaid eligibility during the pandemic, requiring county departments of social services to restart Medicaid eligibility redetermination and post-eligibility verification processes by September 1, 2020;
- prohibits the Division of Health Benefits from transferring to the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, any portion of the certified Medicaid budget surplus calculated for the 2019-2020 fiscal year to offset any reduction in single stream funding;
- sets a rate floor for durable medical equipment for the first three years of the initial standard benefit plan in the capitated contracts;
- allows DHHS to contract with an Indian managed care entity or an Indian health care provider to assist with the provision of health-care related services to certain eligible Medicaid recipients and makes conforming changes;

- establishes the Hospital Uncompensated Care Fund as a non-reverting special fund to be used for payments related to uncompensated care in accordance with rules established by DHHS;
- specifies the intent of the General Assembly to enact changes to Medicaid nontax revenue prior to the start of the 2021-2022 fiscal year;
- allocates \$463 million for the Medicaid rebase;
- allocates \$69 million to implement Medicaid transformation;
- **allocates \$50 million for behavioral health services in response to the COVID-19 pandemic;**
- allocates \$20 million for early childhood initiatives to mitigate the financial impact due to the COVID-19 pandemic;
- **allocates \$100 million in additional funding to expand COVID-19 testing, contact tracing, and analysis;**
- allocates \$15 million to begin the relocation of the Department of Health and Human Services to another location in Wake County (the original bill required DHHS to move out of Wake County and was one of the reasons cited for the Governor’s veto of the original legislation);
- allocates \$32 million for NC FAST; and
- **allocates \$1.4 million for an electronic visit verification system for personal care services and home health services under the Medicaid program.**

**Effective: July 2, 2020, except as otherwise provided.**

SENATE BILL 836, State Operations/Increase Federal Funds Use. This legislation increases the amount of funds appropriated from the Coronavirus Relief Fund for the continuity of State government to the Office of State Budget and Management (OSBM) from \$70 million to \$370 million. The legislation also directs the OSBM to work with relevant State agencies to identify expenditures that may be offset with these funds and do so where possible. **Effective: June 19, 2020.**

SENATE BILL 866, Additions to 2020 Appointments Bill. This legislation appoints persons to various public offices upon the recommendation of the President Pro Tempore of the Senate and the Speaker of the House of Representatives, and the Majority and Minority leaders of the House and Senate.

- Effective July 1, 2020, Margaret Currin of Wake County, Jeffrey T. Hyde of Guilford County, Jeanette K. Doran of Wake County, Randy O. Overton of Wake County, and Paul Powell of Guilford County are appointed to the Rules Review Commission for terms expiring on June 30, 2022.
- Effective January 1, 2021, Dr. Clarence G. Newsome of Mecklenburg County and the Honorable Carl J. Stewart of Gaston County are appointed to the State Ethics Commission for a term expiring on December 31, 2024.
- Brian T. Drew of Wake County is appointed to the 911 Board for a term expiring on December 31, 2020, to fill the unexpired term of Amy T. Ward. Effective January 1, 2021, Chief Jeffrey H. Ledford of Cleveland County, Charles D. Greene of Forsyth County, Earl W. Struble of Wake County, and Gregory Coltrain of Beaufort County are appointed to the 911 Board for a term expiring on December 31, 2024.
- Richard B. Montague of Mitchell County is appointed to the North Carolina Institute of Medicine Board of Directors for a term expiring on December 31, 2021.
- Kelly L. Cobb of Caswell County is appointed to the License to Give Trust Fund Commission for a term expiring on December 31, 2021. Effective January 1, 2021, Joe M.

Cabaleiro of Wake County, Dr. David B. Leaser of Pitt County, Michael Tramber of Forsyth County, and Linda Darden of Forsyth County are appointed to the License to Give Trust Fund Commission for terms expiring December 31, 2022.

- Effective July 1, 2020, the Honorable William Brawley of Mecklenburg County is appointed to the North Carolina Medical Board for a term expiring on June 30, 2023.

**Effective: June 26, 2020.**

SENATE JOINT RESOLUTION 870, Adjourn to Date Certain then Sine Die. This legislation adjourns the short session to September 2, 2020 for a one day session and limits the issues that can be considered to spending coronavirus funds, appointments and nominations. The bill provides:

- when the Senate and House adjourn on Saturday, July 11, 2020, they stand adjourned to reconvene the 2019 Regular Session on Wednesday, September 2, 2020, at 12:00 noon;
- during the regular session that reconvenes on Wednesday, September 2, 2020, only the following matters may be considered:
  - bills that (i) appropriate federal funds received in response to the COVID-19 pandemic or associated matching State funds, (ii) are in accordance with federal law, regulations, and published guidance in effect on that date, and (iii) contain no other matters;
  - bills that (i) provide for action on appointments by the General Assembly pursuant to G.S. 120-121 or provide for the selection, election, appointment, or confirmation, including the filling of vacancies, by one or both houses as required by law and (ii) contain no other matters; and
  - bills that (i) provide for action on gubernatorial nominations or appointments and (ii) contain no other matters; and
- when the House and Senate adjourn on Thursday, September 3, 2020, they stand adjourned sine die (this means the official end to the short session).

**Effective: June 26, 2020.**

## BILLS VETOED BY THE GOVERNOR

Governor Cooper vetoed 11 total bills during the 2020 session (bringing the total to 25 for the 2019-20 biennium session), none of which were overturned by the Legislature. We have included those bills, along with the override status for each chamber and the last action taken, in the chart below.

Bill No.	Title	Veto Date	Overridden		Last Action
			House	Senate	
<a href="#">H536</a>	Temp Outdoor Restaurants for Outdoor Seating	06/05/20			Re-referred to House Rules Committee on 06/10/20.
<a href="#">H594</a>	Temp Open Gyms/ Health Clubs/ Fitness Ctrs.	06/19/20	No		House failed to override veto on 06/24/20.
<a href="#">S105</a>	Clarify Emergency Powers	07/02/20			Vetoed on 07/02/20
<a href="#">S599</a>	Open Skating Rinks/ Bowling Alleys	07/02/20			Vetoed on 07/02/20
<a href="#">H258</a>	Open Amusement Parks/ Arcades/ Venues	07/02/20			Re-referred to House Rules Committee on 07/08/20.
<a href="#">H612</a>	DSS Review of Procedures/ Criminal History/OAH	07/02/20			Re-referred to House Rules Committee on 07/07/20.
<a href="#">H652</a>	2 <sup>nd</sup> Amendment Protection Act	07/02/20	No		House failed to override veto on 07/08/20.
<a href="#">H686</a>	Freedom to Celebrate the Fourth of July	07/02/20	No		House failed to override veto on 07/08/20.
<a href="#">H806</a>	Open Exercise & Fitness Facilities	07/02/20	No		House failed to override veto on 07/08/20.
<a href="#">H918</a>	Expedite Permanency/DHHS Report SNAP/TANF	07/02/20			Re-referred to House Rules Committee on 07/07/20.
<a href="#">S168</a>	DHHS & Other Revisions	07/06/20			Re-referred to Senate Rules Committee on 07/07/20.

## BILLS NOT ENACTED

HOUSE BILL 267, Require Safety Helmets/Under 21, was introduced during the 2019 long session and received several committee hearings. Despite its title, which seems to promote safety, the bill would have actually allowed individuals over 21 not to wear helmets in NC. We provided testimony during the committee hearings expressing our concerns with the public health dangers and the deaths and long-term injuries that would increase if this bill was approved. The bill stalled in 2019 and there was no attempt to move this legislation or similar legislation in the 2020 short session.

HOUSE BILL 652, 2<sup>nd</sup> Amendment Protection Act. This legislation, vetoed by Governor Cooper, would have done the following:

- provided that a person who has a concealed carry handgun permit may carry a handgun on education property that is the location of both a school and a place of religious worship, if the school is a nonpublic school, and the nonpublic school is not in operating hours, meaning any time when curricular or extracurricular activities are taking place on the premises or there is a school-sponsored activity taking place on the premises;

- provided that if a permittee applied to renew a concealed carry permit no more than 60 days after the permit expires, the sheriff would be required to, rather than be permitted to, waive the requirement of taking another firearms safety and training course. If the permittee applied to renew the permit more than 60 days after the permit expires, but no more than 180 days after it expires, then the sheriff would be required to waive the requirements of taking another firearms and safety training course if the permittee takes the listed steps pertaining to a refresher course;
- allowed a person with a concealed handgun permit to carry a concealed handgun in a law enforcement facility if the person is employed by a law enforcement agency who (1) is not a law enforcement officer, (2) had been designated in writing by the head of the law enforcement agency in charge of the facility, (3) had in the person's possession written proof of the designation, and (4) had not had the designation rescinded; and
- expanded the exceptions provided regarding carrying concealed weapons beyond a person's own premises to include EMS personnel while on duty and deployed as part of their official duties providing tactical medical assistance to law enforcement in emergency situations. Requires completion of a tactical medical assistance course for supporting tactical law enforcement operations prior to qualification.

**HB 652 was passed by the House and Senate but vetoed by Gov. Cooper. The House attempt to override the veto failed.**

HOUSE BILL 1061, UI Changes/Work-Sharing Funds. This bill would have made a variety of changes to the State's employment security laws, including establishing a short-time compensation program that allows employers to submit a short-time compensation plan for approval by the Division of Employment Security (Division) for an affected unit of the employer to avert layoffs and offer short-time compensation to workers in the affected unit under an approved plan. The bill would have also increased the maximum amount of weekly benefits from \$350 to \$450 and lengthened the time of payment to 26 weeks. The bill remained in the House Finance Committee as originally referred and never saw any movement.

HOUSE BILL 1067, Modernize Debt Settlement Prohibition. This bill sought to modernize and expand the prohibition of debt settlement by: (1) making debt settlement an unfair trade practice; (2) clarifying the definition of debt settlement; (3) expanding civil remedies available to debtors; and (4) limiting debt settlement acts that are authorized. The bill passed the House and was approved by the Senate Judiciary Committee in a bi-partisan way, but after a great deal of lobbying by the companies who provide debt settlement, the bill was sent back to the Committee for further consideration.

HOUSE BILL 1176, COVID-19/Create Temp. Jobs Statewide/Funds. This bill would have established the Pandemic Safety and Temporary Jobs Fund and provided funding for the immediate creation of time-limited employment opportunities at public entities across the State to fund the hiring of employees whose services are substantially dedicated to mitigating or responding to the pandemic. The bill was referred to the House Rules Committee and never saw any movement out of the committee.

SENATE BILL 374, COVID-19/2020-2021 School Calendar Start. This bill would have allowed local boards of education, with the approval of the State Board of Education, to schedule remote instruction in the first five instructional days of the school calendar if, due to COVID-19, remote instruction is needed to ensure the health and safety of students. The bill passed the House and was referred to the Senate Rules Committee but did not receive a hearing before they adjourned.

SENATE BILL 386, Greater Transparency in Health Care Billing, was introduced during the 2019 long session. The primary sponsors of the bill were Sen. Ralph Hise and Sen. Joyce Kraweic. This bill would have established restrictions on balanced billing and we were strongly opposed to the bill. Senate Bill 386 would have set forth a “reasonable payment” amount and provided a “benchmark amount calculation” of the lesser of 100% of the current Medicare payment rate, the health provider’s actual charges, or the median contracted rate in the insurer’s health provider network for the same or similar services. Failure to comply with this provision would have constituted an unfair and deceptive trade practice in North Carolina subject to treble damages. After working in 2019 to make sure the bill did not move forward as originally filed, our opposition to the bill continued in the short session 2020, and we are happy to report that the bill did not move forward.

SENATE BILL 474, Obsolete Bds/Judicial and Admin. Changes, While this bill was primarily a bill about the abolishment of certain obsolete boards and commissions, the House added language to extend the sunset on the waiver for the requirement of two qualified witnesses for execution of health care powers of attorney and advanced directives for a natural death declaration from August 1, 2020 to March 1, 2021. The Senate did not like the additions that the House made to the bill, and it did not move forward. We supported the proposed extension of the sunset and will work to make this change permanent in the upcoming long session.

SENATE BILL 730, The No Patient Left Alone/Collaboratory Funds, was approved by the Senate and sent to the House and that chamber approved the bill with a variety of changes requested by the North Carolina Health Care Association. The Senate did not agree with the changes made by the House, and the bill stalled out at the end of the session. The bill would have guaranteed visitation rights for hospital patients during a disaster declaration or public health emergency. More specifically, the bill provided that hospitals allow a support person of the patient’s choice to be present during the patient’s stay, unless the individual’s presence infringed on another’s rights or safety.

SENATE BILL 848, COVID-19 Franchise Tax Credit and Grants. This bill would have provided a temporary franchise tax credit for corporations that retained employment levels and made investments in North Carolina during and after the covid-19 pandemic, as well as \$50 million for the franchise tax credit and \$50 million to the One North Carolina Grant Program. The bill was passed by the Senate, and was referred to the House Appropriations Committee, but did not see any movement in that committee.

Re-open Gyms, Bars, Bowling Alleys, Other Entertainment Venues. The Legislature passed several bills this session seeking to re-open gyms, bars, bowling alleys, and other entertainment venues. All of these bills were vetoed by the Governor and neither the House or Senate had the votes to override those vetoes. The various bills included the following:

HOUSE BILL 258, Open Amusement Parks/ Arcades/ Venues. This bill would have authorized amusement parks, gaming and business establishments with video games and arcade games, fairs or carnivals, and venues for receptions or parties to resume operations and allowed outdoor stadium operating restaurants to offer and operate outdoor dining and beverage service options. The bill was vetoed by the Governor on July 2, 2020, and re-referred to House Rules Committee on July 8.

HOUSE BILL 536, Temp Outdoor Restaurants for Outdoor Seating. This bill would have allowed any establishment that prepares or serves food or drink to open and operate its food and drink



service for on-premises consumption provided all the specified conditions were met. The bill was vetoed by the Governor on June 5, 2020, and re-referred to House Rules Committee on June 10.

HOUSE BILL 594, Temp Open Gyms/ Health Clubs/ Fitness Ctrs. This bill would have allowed indoor or outdoor exercise and fitness facilities, gyms, health clubs, and fitness centers to resume operations and allowed certain existing establishments to offer and operate outdoor dining and beverage service options. The bill was vetoed by the Governor on June 19, 2020, and the House failed to override the veto.

HOUSE BILL 806, Open Exercise & Fitness Facilities. This bill would have allowed indoor or outdoor exercise and fitness facilities, gyms, health clubs, and fitness centers to resume operations when certain conditions are met. The bill was vetoed by the Governor on July 2, 2020, and the House failed to override the veto.

SENATE BILL 599, Open Skating Rinks/ Bowling Alleys. This bill would have allowed skating rinks and bowling alleys to resume operations and modified the capacity of temporary outdoor seating for food and drink establishments to fifty percent (50%) of the current indoor seating capacity of the establishment, or 100 customers, whichever is less, or, if the establishment is located in a minor league baseball stadium, ten percent (10%) of the spectator capacity of the stadium. The Governor vetoed the bill on July 2, 2020, and the House failed to override the veto.

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