



INTRODUCTION

The North Carolina General Assembly convened the 2014 “short” legislative session on Wednesday, May 14th, and promptly set a pace that even the most seasoned veterans of state government would call blistering. Major legislation on taxes, regulatory reform, and energy policy were set in motion within the first days of the session. While these bills covered issues that were studied and debated throughout the interim, and in many cases reflected verbatim the recommendations of various interim committees, it is very unusual for so many major legislative priorities to be moving at the same time, and so early. The “out of the gate” feeling this year contrasts with the opening weeks of short sessions past, when budgets and priority lists were still being worked out behind closed doors and there was little progress on substantive issues. The more optimistic conclusion would be that this pace will continue and the session will conclude its business in late June or early July, and avoid the protracted standoffs and negotiations we’ve seen in other sessions, including in the last two years. Certainly both the House Speaker, who is now the Republican nominee for the U.S. Senate, and the Senate President Pro Tem, whose son faces a July 15th runoff in his campaign for the 6th Congressional District, have ample reason to get done with their business on Jones St. as soon as possible. The question is whether it is possible for the House and Senate to summon the collegiality (or at least, productive tension) necessary to make such hopes a reality. A bit of pre-session drama may have provided some clues.

The day before session convened, a meeting of the interim study committee on the implementation of the Affordable Care Act was scheduled for a vote on their final report and recommendations. Among those recommendations was a proposed moratorium on any new health insurance mandates, which was favored by many members of the Senate but conflicts with an Autism insurance mandate passed last year by the House. With the proposed moratorium in what was essentially an anti-Obamacare bill, members of the majority who support the Autism mandate were in a tough position, so many House members simply chose not to attend the meeting, denying the Chairs a quorum and therefore the ability to pass the committee’s report. Two successive attempts to assemble a sufficient number of attendees also failed, which ended the chances that the report, and its moratoriums, would be passed.



NORTH CAROLINA COLLEGE OF EMERGENCY PHYSICIANS



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With this House v. Senate drama as the backdrop, the session officially convened roughly an hour later. Whether this conflict was an isolated incident or an indication that the chambers are set to once again face off - with the date of adjournment, the State budget, and the fate of a few hundred legislative proposals in the balance - remains to be seen. Given the speed at which each chamber's major legislative proposals are working toward the other chamber, it's likely we won't have to wait long to find out. In the meantime, full committee schedules and rapidly approaching bill filing deadlines will keep the pace of the legislative process near historic highs, and as always we will keep you updated as things unfold.

(Note: This report covers bills filed and acted upon in the first week of session.)

BILLS OF INTEREST

HOUSE BILL 1037, Strengthen Controlled Substances Monitoring, would:

- direct the following health officials and health care provider licensing boards to develop opioid prescribing guidelines for adoption by the health care provider licensing boards: (1) State Health Director; (2) Director of Medical Assistance; (3) Director of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services; (4) directors of medical, dental, and mental health services within the Department of Public Safety; (5) NC Board of Dental Examiners; (6) NC Board of Nursing; (7) NC Board of Podiatry Examiners; and (8) NC Medical Board, by December 31, 2014. The licensing boards would be required to adopt the guidelines by July 1, 2015.
- require the NC Board of Dental Examiners, NC Board of Nursing, NC Board of Podiatry Examiners, and NC Medical Board to require continuing education on the abuse of controlled substances as a condition of license renewal for providers prescribing controlled substances. At least one hour of such continuing education would need to be a course specifically addressing prescribing practices, including instruction on controlled substance prescribing practices and chronic pain management.
- allow the release of data in the controlled substances reporting system to the federal Drug Enforcement Administration's Office of Diversion Control and the NC Health Information Exchange. Require the Department of Health and Human Services (DHHS) to adopt policies and procedures documenting and supporting the additional functionality of the NC Controlled Substances Reporting System (CSRS) and expand access.
- direct DHHS to modify the contract for the CSRS to improve performance, establish user access controls, establish data security protocols, and ensure availability of data for advanced analytics.
- require DHHS to create a connection to the RxCheck Hub to create connectivity for the drug monitoring program.
- require CSRS to expand its monitoring capacity by establishing data use agreements with the Prescription Behavior Surveillance System.
- require the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services to report every two years on its participation with the Prescription Behavior Surveillance System.
- require the Division of Medical Assistance to take six detailed steps to improve the effectiveness and efficiency of the Medicaid lock-in program, including establishing written procedures for the operation of the program, extend lock-in duration by two years, and increase program capacity.
- create the Prescription Drug Abuse Advisory Committee (Committee) to be housed in and staffed by DHHS. The Committee would be directed to develop and through its

members implement a statewide strategic plan to combat the problem of prescription drug abuse, after which time it would serve as the State's steering committee and receive regular reports on progress made toward reducing prescription drug abuse in the state. Committee representatives, outcome-oriented strategic goals and minimum steps the Committee would be required to take in developing its strategic plan, along with performance management and reporting requirements, are detailed.

Introduced by Representatives Howard, Moffitt, and Lucas and referred to the House Committee on Health and Human Services.

HOUSE BILL 1046, State Plan Amendments/Submission and Notice, would require additional public posting and notice of State Plan Amendments (State requested changes to Medicaid program). These would include: (1) requiring an amendment to remain posted on the DHHS website at least until the plan has been approved, rejected, or withdrawn; (2) providing that, if a change to the Medicaid program that requires an amendment to the State Plan is made by the General Assembly, then the amendment must be submitted at least 90 days prior to the effective date of the change as provided in the legislation; (3) directing DHHS to submit an amendment to the State Plan to the federal government at least 90 days prior to the effective date of the amendment, regardless of any later submission date allowed under federal law; and (4) requiring DHHS to post any required public notice on its website in addition to other federal posting requirements. **Introduced by Representatives Burr and Hollo and referred to the House Health and Human Services Committee.**

HOUSE BILL 1050, Omnibus Tax Law Changes, is a major piece of legislation that contains a significant number of changes to the state's tax code, dealing with issues as diverse as the taxation of "e-cigarette" nicotine vapor products to vending machines and compensation for License Plate Agents. As the bill moves through the process it is expected to be amended in a variety of ways, and we will update you if the bill is amended with relevant provisions.

The most significant change proposed by the legislation would be a repeal of the state's current privilege license tax system which varies widely from city to city. We have reported on this several times in the last couple of months and it is referred to as the Fair and Flat Local Business Tax. All the prior exemptions for privilege taxes would be removed and each business operating in a city would pay a maximum of \$100, except for 501(c)(3) non-profits. Critics of the proposed change, many representing the state's cities, warn that the revenue they would lose if the bill is approved would require raising property taxes and cutting vital services to compensate. **Introduced by Representatives Howard, W. Brawley, Lewis, and Setzer and referred to the House Committee on Finance.**

HOUSE BILL 1061, Replace Common Core To Meet NC's Needs, would repeal the requirement that the North Carolina State Board of Education participate in the development and implementation of the Common Core Standards, and would instead adhere to standards adopted by the State Board of Education to be known as the North Carolina Standard Course of Study, "reflecting emphasis on North Carolina's needs and priorities." The legislation would establish a 17 member Academic Standards Review Commission and require both this Commission and the State Board of Education to conduct a comprehensive review of the academic standards for English Language Arts and Mathematics. The Commission would recommend changes and modifications to these academic standards, and suggest assessments aligned to the proposed changes and modification, that would also reduce the number of assessments administered to public schools. The bill would also prohibit the State Board from acquiring or implementing an assessment instrument without legislation authorizing the purchase. **Introduced by**

Representatives Holloway, Pittman and Speciale and referred to the House Committees on Education and, if favorable, Appropriations.

HOUSE BILL 1065, Study Expansion of Health Care Transparency, would require the Department of Health and Human Services to study and submit a written report to the Joint Legislative Oversight Committee on Health and Human Services summarizing its recommendations for extending North Carolina's Health Care Cost Reduction and Transparency Act of 2013 (the Act) to additional health care providers. The report would be due by December 1, 2014 and would identify all of the following:

- recommended categories of additional health care providers that should be subject to the requirements of the Act.
- recommended data to be collected for the purpose of transparency from each category of identified health care providers.
- recommended exemptions, if any, from certain requirements of the Act for each category of identified health care providers.
- recommended effective dates for the applicability of the Act to each category of identified health care providers.

Introduced by Representative Hollo and referred to the House Committee on Health and Human Services.

HOUSE BILL 1083, Expand Medicaid to Include All Below 133% FLP, is identical to Senate Bill 730, summarized below in this Legislative Report. **Introduced by Representatives Insko, Earle, Luebke, and Cunningham and referred to the House Health and Human Services Committee.**

HOUSE BILL 1099, Unmanned Aircraft Regulation, would regulate the use of unmanned aircraft systems. The bill includes provisions regarding crimes committed using unmanned aircraft systems, interference with manned aircraft by unmanned aircraft systems, unlawful possession and use of unmanned aircraft systems, training required for operation of unmanned aircraft systems, and a license requirement for the commercial operation of unmanned aircraft systems. The Division of Aviation of the Department of Transportation would develop and implement the required knowledge and skills. The operation of unmanned aircraft systems for commercial purposes in this State would be prohibited until the FAA has authorized commercial operations and the required licensing system has been implemented. **Introduced by Representative Torbett and referred to the House Government Committee.**

HOUSE BILL 1109, Clarify Existing Rule Readoption Process, seeks to clarify the process for readoption of rules in accordance with the periodic review and exemption of existing rules provision of the Administrative Procedures Act and would:

- require that the Rules Review Commission (RRC) report to the Joint Legislative Administrative Procedure Oversight Committee any agency that fails to conduct the existing rule review;
- once the final determination report becomes effective, require the RRC to establish a date by which the agency must readopt the rules;
- allow the agency to amend a rule as part of the readoption process; and
- provide that if a rule is readopted without change, the agency is not required to prepare a fiscal note.

Introduced by Representatives Moffitt, Murry, Floyd, and Bryan and referred to the House Committee on Regulatory Reform.

HOUSE BILL 1132, Strategies for Improving MH-DD-SAS, is identical to Senate Bill 804, summarized below in this Legislative Report. **Introduced by Representatives S. Martin, Burr, and Lambeth and referred to the House Health and Human Services Committee.**

HOUSE BILL 1145, Insurance and Registration Required for Mopeds, would require all mopeds to be registered with the Division of Motor Vehicles and to have liability and theft or physical damage insurance in order to be operated on public highways or roads. **Introduced by Representatives Shepard, R. Brown, and Millis and referred to the House Transportation Committee.**

HOUSE BILL 1152, Eliminate Obsolete Boards and Commissions, would eliminate various board and commissions, including the North Carolina Center for Nursing Board of Directors. **Introduced by Representatives Moffitt, Murry, Millis, and Jackson and referred to the House Regulatory Reform Committee.**

HOUSE BILL 1157, Electronic Drivers License Amendment, would allow a person to remotely renew his or her drivers license through the Division of Motor Vehicles when certain requirements are met. "Remote renewal" would include the renewal of a drivers license by mail, telephone, electronic device, or other approved secure means. **Introduced by Representatives Saine and Torbett and referred to the House Transportation Committee.**

HOUSE BILL 1161, Legalize Medical Marijuana/Constitutional Amendment, would amend the State constitution, if approved by voters in a statewide election held on November 4, 2014, to authorize the General Assembly to enact legislation that may be necessary to implement and enforce provisions that would allow the medical use of cannabis to alleviate and treat debilitating medical conditions and their symptoms and to allow the acquisition, possession, cultivation, manufacture, delivery, transfer, or transportation of cannabis exclusively for medical use. **Introduced by Representative Alexander and referred to the House Judiciary Committee.**

HOUSE BILL 1165, Amend OLB Reporting Requirements, is identical to Senate Bill 780, summarized below in this Legislative Report. **Introduced by Representatives Moffitt, Murry, Brody, and Floyd and referred to the House Regulatory Reform Committee.**

SENATE BILL 729, Governor's Coal Ash Action Plan. This legislation is a reaction to the February disaster in which the failure of a stormwater pipe under a utility coal ash impoundment pond spilled an estimated 39,000 tons of coal ash into the Dan River. The spill happened in Eden NC, which is the hometown of Senate President Pro Tem Phil Berger. As recommended by the Governor and filed by Senate leaders Berger and Rules Chairman Tom Apodaca, the bill would:

- change the notifications requirements applicable to discharges of wastewater,
- establish the coal combustion products impoundment water monitoring program,
- identify and address unpermitted wastewater discharges at coal combustion products impoundment sites,
- require emergency action plans for high and intermediate hazard dams,
- change notification requirements applicable to dam repairs,
- increase coal combustion products inspections requirements,
- modify the definition of solid waste to include removed combustion products,
- place a temporary moratorium on the use of coal combustion products as structural fill,
- establish requirements and schedule the closure of coal combustion products impoundments, including a requirement that the owner provide a post-closure plan for a minimum of 30 years, and

- appropriate \$1.4 million to establish 19 full-time positions and cover operating costs necessary to implement the provisions above.

Introduced by Senators Berger and Apodaca and referred to the Senate Committee on Agriculture/Environment/Natural Resources.

SENATE BILL 730, Expand Medicaid to Include All Below 133% FLP, would repeal Session Law 2013-5 (Senate Bill 4, No NC Exchange/No Medicaid Expansion) which prohibits North Carolina from expanding Medicaid under the Accountable Care Act and rejects federal funds to cover the uninsured. The bill would expand Medicaid eligibility, effective January 1, 2015, by including coverage for all people under age 65 who have incomes equal to or less than 133% of the federal poverty guidelines, and would provide over \$17 million to the Division of Medical Assistance for administrative costs associated with the expansion. Due to anticipated cost savings resulting from the Medicaid expansion, the following appropriations reductions would be made: DHHS, Division of Mental Health, would be reduced by almost \$8.2 million; the AIDS Drug Assistance Program (ADAP) would be reduced by \$14.3 million; and the Inmate Health Care program within the Department of Public Safety, Division of Corrections, would be reduced by \$8.5 million. In addition, an appropriation of almost \$25.2 million would be made to the Medicaid program as part of the Medicaid Rebase. **Introduced by Senators Clark and Robinson and referred to the Senate Appropriations Committee.**

SENATE BILL 749, Strengthen Controlled Substances Monitoring, is identical to House Bill 1037 summarized above. **Introduced by Senators Hartsell and Clark and referred to the Senate Committee on Health Care.**

SENATE BILL 777, Eliminate Obsolete Boards and Commission. This bill that would eliminate several boards and commission is identical to Senate Bill 34, summarized in the February 4, 2013, legislative report. **Introduced by Senator Hartsell and referred to the Senate Education/Higher Education Committee.**

SENATE BILL 780, Amend OLB Reporting Requirements, would amend the reporting requirements for occupational licensing boards by adding to the current list of information required to be included in the boards' annual report: (1) the total number of licensees supervised by the board; and (2) the number of persons who failed the board's licensure examination. The legislation would also require each board to provide the required annual financial report electronically; would direct the required reports currently delivered to the Joint Regulatory Reform Committee to be delivered instead to the Joint Legislative Procedure Oversight Committee, and require the Joint Legislative Procedure Oversight Committee to notify the boards which fail to file any of the required reports. **Introduced by Senator Hartsell and referred to the Senate Judiciary I Committee.**

SENATE BILL 782, State Plan Amendments/Submission and Notice, is identical to House Bill 1046, summarized above in this Legislative Report. **Introduced by Senator Hise and referred to the Senate Health Care Committee.**

SENATE BILL 783, Establish Chiropractor Co-Pay Parity, would prohibit an insurer from imposing a co-payment upon an insured, as a limitation on treatment or level of coverage, for services performed by a duly licensed chiropractor that is higher than the co-payment imposed for services performed by a duly licensed primary care physician for a comparable, medically necessary treatment or condition. **Introduced by Senator Hise and referred to the Senate Insurance Committee.**

SENATE BILL 784, Study Expansion of Health Care Transparency, is identical to House Bill 1065, summarized above in this Legislative Report. **Introduced by Senator Hise and referred to the Senate Committee on Health Care.**

SENATE BILL 787, Teacher Funds Must Be 51% of School Budget, would require that at least 51% of General Fund appropriations for public schools each fiscal year go to Teachers. **Introduced by Senators Apodaca, Curtis, and Rabon and referred to the Senate Education/Higher Education Committee.**

SENATE BILL 804, Strategies for Improving MH-DD-SAS, would direct the Department of Health and Human Services (DHHS) to report to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division by November 1, 2014, on:

- A strategy for improving communication and coordination among all divisions within the DHHS that administer funds or programs related to the delivery of behavioral health services, especially regarding the most appropriate and efficient uses of public and private inpatient behavioral health services.
- A plan developed in collaboration with local management entities that have been approved to operate as managed care organizations (LME/MCOs) to increase access to, and availability of, community-based outpatient crisis and emergency services for the stabilization and treatment of individuals experiencing mental health, developmental disability, or substance abuse crises in settings other than local hospital emergency departments and State-operated psychiatric hospitals.
- A plan to ensure that a comprehensive array of outpatient treatment and crisis prevention and intervention services are available and accessible to children, adolescents, and adults in every LME/MCO catchment area. The plan shall ensure that an adequate number of crisis stabilization units are available in each LME/MCO catchment area.
- Findings and recommendations for increasing the inventory of inpatient psychiatric and substance abuse services within the State, including the advantages and disadvantages of increasing this inventory of services through (i) additional State-operated facilities, (ii) community hospital beds, (iii) US Veterans Administration beds, and (iv) community-based services that decrease the need for inpatient treatment.
- A plan for offering hospitals and other entities incentives to apply for licenses to begin offering new inpatient behavioral health services, or to begin operating existing licensed beds that are currently unstaffed, or both.
- Recommendations on the use of the existing Cherry Hospital buildings after patients and operations are relocated to the replacement facility, including the feasibility of using the existing Cherry Hospital facility to provide community-based and facility-based behavioral health services, including additional child and adolescent inpatient beds.
- A method by which the Division of Health Service Regulation can begin tracking and separately reporting no later than January 1, 2015, on the inventory of inpatient behavioral health beds for children ages six through 12 and for adolescents over age 12.
- A status update on the implementation of each component of the 2008 Mental Health Commission Workforce Development Plan.

The bill also would direct DHHS to report to various legislative committees on the following:

- A comprehensive strategy, developed in collaboration with relevant stakeholders, to address the dearth of licensed child and adolescent inpatient psychiatric beds throughout the State. The strategy would: (i) ensure that an adequate inventory of child and adolescent beds are available in each LME/MCO catchment area, and (ii) include the development and implementation of a child and adolescent psychiatric bed registry to

provide real-time information on the number of beds available at each licensed inpatient facility in the State; and

- Recommendations for meaningful outcome measures to be implemented by State-operated alcohol and drug abuse treatment centers to assess the impact of inpatient treatment on an individual's substance use following discharge from a State-operated alcohol and drug abuse treatment center.

Introduced by Senators Hise and Hartsell and referred to the Senate Health Care Committee.

SENATE BILL 812, Replace Common Core To Meet NC's Needs, is identical to House Bill 1061, summarized above in this Legislative Report. **Introduced by Senators Soucek and Tillman and referred to the Senate Education/Higher Education Committee.**

SENATE BILL 817, 4-Year Terms for GA/Limit Consecutive Terms, would amend the State constitution, if approved by voters in a statewide election held in November 2014, to limit members of the Senate and House of Representatives to no more than four consecutive terms and to provide for a 4-year instead of the current 2-year terms. **Introduced by Senators Daniel, Tarte, and Rabin and referred to the Senate Rules Committee.**

GOVERNOR'S BUDGET

On May 14th, Governor Pat McCrory released his budget recommendations for the 2014-2015 fiscal year. Traditionally the Governor's budgets have been received with something between polite acknowledgment and outright derision (the latter particularly in year when the executive and legislative branches are controlled by different parties). This year, however, the potential for a more collegial and collaborative approach seemed possible, given public statements by legislative leaders that indicated some level of support for the Governor's priorities, at least in principle. Foremost among these is pay raises for teachers, particularly those new to the profession, which the Governor has been publically championing in the last several weeks. While legislators have expressed a similar desire to raise teacher and state employee pay, the question of how to pay for them given a \$445 budget deficit and an expected Medicaid shortfall remained open. Particularly given the dire predictions of the past several months, the Governor's budget revealed some good news that may help bridge the fiscal gap.

The Medicaid shortfall, predicted to be between \$120-180 million and rumored to be as high as \$300 million or more, is now expected to be roughly \$70 million according the Governor's budget office. Additionally, the \$445 million revenue shortfall is offset in the Governor's budget by \$323.7 million in unappropriated funds from last year, as well as roughly \$290 million in estimated agency savings and reversions. If these numbers hold up, they should help fund the pay raises that teachers and state employees have been promised, which would provide a welcome accomplishment as members of the majority look toward the fall campaign season.

Despite its generally optimistic outlook, the Governor's budget does contain unwelcome recommendations for some. If the Governor's recommendations were adopted the UNC System would face a \$49.4 million reduction, as well as higher tuition for out-of-state students. The Department of Health and Human Services budget would be cut by over \$122 million, much of it from increased assessments on provider and hospital payments.

While some of the Governor's priorities are likely to be shared by legislative leaders, some have already received a chilly reception on Jones St. In particular, the Governor's proposed Medicaid Reform plan presented to the General Assembly earlier this spring is unlikely to receive serious consideration during this short session, and the \$1 million included in the Governor's budget as seed money for implementation may well be appropriated elsewhere by the House and Senate budget writers. The true test for Gov. McCrory's spending priorities is coming in roughly 2 weeks, when the Senate is expected to release its own spending plan. How similar it is to the Governor's proposal will reveal the level of shared priorities between them, but the question that most in state government really want answered is, how long will the short session last? The answer to that will likely come down not to the question of shared priorities between the Governor and the Senate, but those between the Senate and the House. In many ways, despite the effort and time put in to the Governor's recommended budget, the real battle for the state's spending plan has just begun.

Shared Savings Plan: Last year's budget enacted a shared savings plan that included a 3% rate reduction but also proposed some return savings as an incentive to providers. Due to the difficulty of achieving the estimated savings as enacted, a portion of the funding is being restored.

LME/MCO Assessment: The Governor's budget recommends implementing a 3.5% assessment on LME/MCOs' non-Medicare revenue, as allowed by federal law. The state retention of the assessment would be 65.86% and would be used to fund Medicaid services. Savings from this provision are estimated to be \$59,555,995.

Hospital Provider Assessment: The Governor's budget would change the amount of the state's retention of enhanced Medicaid payments hospitals receive through the assessment program from 25.9% to 28.85%. The state's retention of the assessment would be used to fund Medicaid Services. Savings from this provision are estimated to be \$15,102,794.

ED Diversion: The Governor's budget recommends \$6.1 million in federal block grant funded expansion of the community based crisis services system. System enhancements would include Emergency Department diversion services (group home training and paramedic mobile crisis), expanded alternative treatment settings (walk-in crisis and peer run centers) and transition care.

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