



INTRODUCTION

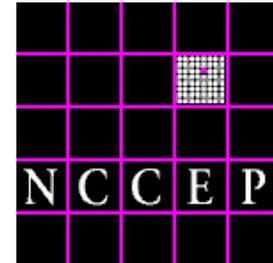
The 2013 session of the North Carolina General Assembly will likely go down in our state's history as one of the most pivotal, controversial and polarizing. To some, it represented a much-needed correction of course after years of policy drift and expansion of state government. To others it signaled a dangerous push to the right by an extreme minority, against the wishes and interest of the majority of our citizens. Republicans, in full control of state government for the first time in 140 years, enacted sweeping reforms of North Carolina's taxation, regulation, education, gun regulation and elections laws, which collectively touch the lives of everyone in the state and alter its reputation as a progressive exception to our more conservative Southern neighbors. The overall shift in policy was nothing less than revolutionary, and the fight to define that shift in the public eye as either beneficial and long overdue, or dangerous and destructive, is well underway.

“Moral Mondays”

In reaction to the sharp rightward turn in so many policy areas, a collection of activists, led by the state chapter of the NAACP and including labor unions, environmentalists, progressive policy organizations, clergy and supportive citizens began a series of protests that quickly drew national attention. The “Moral Monday” protests (along with the lesser known “Witness Wednesdays”) started relatively small but soon began attracting hundreds and, in some cases, thousands of attendees opposed to some or all of the priorities of the Republican-led legislature. Among the most notable aspects of the protests were the number of people arrested each week for civil disobedience – in some cases over a hundred at a time. Loosening of environmental regulations, restrictions on access to abortion, reduced funding for education, the decision not to expand Medicaid under the Affordable Care Act, reduction of unemployment benefits and a Voter ID bill were among the most-often cited sources of the protesters' frustration. Supporters of the legislature's actions dismissed the protests as a predictable backlash by liberal elites and entitled union-types to the tough but necessary decisions being made to correct the failings of previous majorities. While Moral Mondays did little to slow or mitigate the legislature's rightward push, their persistence did result in the legislature, and particularly policy changes, being highlighted by various state and national press outlets, adding fuel to the public debate about the direction being taken in Raleigh.



NORTH CAROLINA COLLEGE OF EMERGENCY PHYSICIANS



THIS LEGISLATIVE REPORT IS A
PUBLICATION OF KOCHANЕК LAW GROUP
AND IS A MEMBER BENEFIT OF NCCEP.
ANY USE OR REPRODUCTION OF THIS
REPORT IS LIMITED TO NCCEP
AND ITS MEMBERS.

FOR MORE INFORMATION:

Colleen Kochanek
NCCEP Legislative Counsel
P.O. Box 12946
Raleigh, NC 27605
919.747.9988

colleen@kochaneklawgroup.com
www.kochaneklawgroup.com

State v. Cities

A recurring theme through the session was a “State vs. cities” dynamic, as a number of measures were passed strengthening the power of the legislature at the expense of municipalities. Among these measures was a bill to allow Charlotte to use existing taxes to pay for renovations to the Bank of America Stadium, home of the NFL’s Panthers; one that shifted control of Asheville’s water system from the city to an appointed board; a particularly controversial measure that would take control of the Charlotte-Douglas International Airport away from the city and give it to regional authority (a measure passed in two different forms and now the subject of a court injunction and lawsuit); an aesthetic controls bill, which would limit cities’ and towns’ authority to control home appearance and design; a measure overriding local governments decisions regarding a major development outside Durham; and a bill filed in the Senate that would void the lease agreement for the Dorothea Dix campus former Gov. Perdue entered into with Raleigh in the waning days of her administration. While not all of these measures became law, the overall sense of conflict between the legislature and particular municipalities persisted, and it did not escape the attention of political observers that many of the cities in question happen to be led by Democratic mayors.

Controversial Bills

One of the most controversial bills of the session was the Voter ID bill, which in fact makes many more significant changes to the state’s election laws in addition to implementing a voter ID requirement. Many of the bill’s changes were made to laws enacted during Democratic control of state government. Expansion of Early Voting, same-day voter registration, public financing of some campaigns, and the preregistration of 16 and 17-year olds were all repealed. Critics charged that this legislation, combined with the redrawing of political districts completed in 2011, amounted to an attempt by Republican leaders to protect their majorities in the face of public backlash against their agenda, and to disenfranchise poor, young and minority voters, groups that tend to vote Democratic. Supporters of the bill countered that it protects the integrity of elections and brings our voting laws into alignment with most other states’. Like several other major pieces of the majorities’ agenda passed this session, the Voter ID bill is expected to have its final hearing in court.

Another of the most controversial bills passed this session contained a number of changes to the state’s abortion laws, including restricting access to insurance plans that cover abortion services and tightening regulation of abortion clinics. While supporters of the bill pointed to the recent closures of two abortion clinics in the state, opponents countered that the closures confirmed existing regulations were sufficient. The backlash over the bill, and the process by which it moved through the legislature (particularly the decision by each chamber to make significant moves toward its passage without any public notice), gave fuel to the protests against the legislature and particularly Governor McCrory, who had pledged during his campaign to oppose any new abortion restrictions. Despite the Governor’s pledge, and his caution to give the issue careful study before making significant changes, he signed the bill into law. Recent polls have indicated his decision to do so has cost him support, and several Democratic notables have begun laying what seems to be the groundwork for a challenge in 2016. As the only statewide officeholder directly involved in passage of these measures (Lt. Gov. Dan Forest presides over the Senate but only votes in case of tie, which has not been necessary this session), McCrory is likely the most at risk if public anger can be translated to votes against him, albeit three years from now.

McCrory vs. Berger vs. Tillis

The difficult position Governor McCrory found himself in when the abortion bill landed on his desk outlined another overriding theme of the session - tensions between the three leaders of state government - Governor McCrory, House Speaker Tillis and President Pro Tem Berger. Governor McCrory and House Speaker Tillis, both relative moderates from Charlotte, and Senate Speaker Pro Tem Phil Berger, a conservative from Rockingham County, found themselves at odds throughout the session, with Berger and the Senate pushing several measures further to the right than either Tillis or McCrory seemed comfortable with during the session. On guns, abortion, taxes, education and energy development, Berger consistently took a more conservative position than either of his colleagues in leadership. Speculation regarding the reasons for this abounded once Tillis declared his intention to run for the U.S. Senate seat currently held by Kay Hagan, as Berger's interest in the seat, or lack thereof, was a constant source of discussion, and continues to be. Many observers note that, regardless of any ambitions for higher office on Berger's part, tensions between him and Tillis were evident as early as the 2011 session, and frequently spilled into the public eye as that session progressed. Hopes for a more collegial session between the chambers were quickly dashed as new clashes played out early in the session, in full view of staff, lobbyists and the press corps.

No measure exemplified the tensions between the chambers and the Governor than the Tax Reform bill. While the measure began life in the Senate as a significant rewrite of the state's tax code, including a broad expansion of the sales tax base, it became clear fairly early that such a significant reform was unlikely to be politically palatable, and the question then became about tax cuts – for whom, how deep, and at whose expense. Early drafts of a Senate plan were more far-reaching than the final legislation, calling for the elimination of the corporate income tax and raising revenue by eliminating exemptions favored by hospitals and Realtors, two of the state's more powerful lobbies. The House countered with a less expansive proposal that alleviated some of the concerns raised by what some leading Senators derisively referred to as the “special interests” bent on preventing reform. When the Governor publicly sided with the House's approach, tensions between the Senate and McCrory/Tillis reached a new height (with a leading Senator telling reporters McCrory's preference for the House's plan stemmed from his lack of “real business experience”). Deadlocked over Tax Reform, the chambers delayed action on most of the other major pieces of legislation still pending, most notably the budget. Forced to delay completion of the state spending plan by an uncertain revenue total, the Republicans had to do what they had been so critical of their Democratic colleagues for doing in years past, passing a Continuing Resolution to keep the wheels of government turning after the end of the fiscal year on June 30th. Eventually, a deal was reached on the Tax Reform bill, and McCrory, Tillis and Berger made a great public show of unity in announcing it, but the divisions that the process revealed remain, and will undoubtedly influence the fate of measures left to tackle in the 2014 “short” session. Whether the Tillis vs. Berger dynamic will play out on the campaign trail for the U.S. Senate has yet to be determined, as Berger continues to weigh his options.

Freshman Are To Be Seen and Not Heard*

Another factor at play this session was the large class of freshman legislators elected in 2012. Due to the redistricting plan put into place in 2011, which combined several existing districts and created many new ones, and a record number of incumbents choosing not to run again, this session's incoming class was the largest in memory. Given the size of both Republican caucuses – they hold 33 of 50 seats in the Senate and 77 of 120 seats in the House, veto-proof supermajorities in both cases – the large number of new legislators, the sense that the majorities

had full control and planned to use it, and that the Freshman expected to be involved, made the tension palpable at the start of session. Typically new legislators spend their first session learning the process and, for the most part, following the lead of their more senior colleagues, but this session seemed different. Members in their second terms were given influential committee assignments, and the “back bench” in many cases constituted a majority. Because of this, an element of unpredictability kept things interesting, and on more than one occasion measures favored by the leadership or senior members were voted down with Freshman Republicans joining Democrats in voting no. Other bills that may not have gained traction otherwise were seemingly pushed forward by the sheer size of the coalition supportive of it. Many observers felt some of the more controversial measures, which Speaker Tillis may not want to defend on the campaign trail, were passed at the insistence of a wing of the caucus made larger, and more influential, by the presence of so many new legislators, secure in their priorities, safe in their seats (thanks to redistricting) and unwilling to wait two years to make an impact.

Vetoes

Toward the end of session Governor McCrory was reported to be searching for a bill or two to veto, to signal his independence from the legislature (and, presumably, their declining poll numbers). Most observers assumed he would choose measures that were passed with something less than the three-fifths majority that would be needed to override his veto. For example, a measure delaying the implementation of the Jordan Lake Rules (which deal with water quality, stormwater runoff from developments, etc.) was passed with 61 votes in the House, well short of the 72 needed to override. Instead, McCrory chose to veto HB 392, which requires drug testing of certain applicants for public assistance (which had passed 106-6 in the House and 43-6 in the Senate); and HB 786, which requires a study of various issues related to immigration, as well as allows for more flexibility in the hiring of immigrants (which had passed 85-28 in the House and 43-1 in the Senate). Despite a multi-week, public and private lobbying effort by the Governor, both the House and Senate easily overrode both vetoes, and the measures became law. While many felt the overrides were a defeat for McCrory and contributed to criticism of his leadership as weak, others noted the overrides provided some distance from the legislature’s agenda, perhaps what the Governor had been seeking when he first picked up his veto stamp.

The Interim

With the Governor’s vetoes overridden, session has once again adjourned until May 14th, 2014, however the machine of state politics will not slow entirely. Joint Oversight Committees will be assigned and begin the work of studying a variety of issues, each with a number of constituencies vying for influence on the outcome. Interested groups will continue to work toward finding compromise, or a path to outright victory, on the measures still waiting to be taken up during the short session in May. As that session is only expected to last 6 weeks or so, work on the remaining bills will by necessity continue throughout the interim, and lobbyists will stay fully engaged in ensuring their client’s position is stronger when the next session convenes than it was when this one adjourned. While legislators have returned to their districts, their “other jobs” and their families, they are also busy raising money and building influence, particularly in the House, where a successor to Speaker Tillis will be chosen in 2015, based largely on efforts already underway by prospective Speakers to-be. Depending on what Pro Tem Berger decides, the primary race for the Republican nominee for U.S. Senate could be incredibly interesting. The organizers of Moral Monday, and members of the Democratic minority, are already hard at work spreading their message across the state in an effort to enlist public sentiment against the majority, while Republicans are actively telling their side of the story to constituents back home

and groups aligned with the Governor have begun a media campaign to mitigate the damage done to his poll numbers. Which of these efforts will be more successful won't be clear until next November, and perhaps the November two years later, but one thing is clear – the battle over the direction of our state is as fierce and passionate as it has ever been.

This Final Legislative Report includes legislation of interest that was approved and signed into law, a review of the 2013-2015 State Budget, relevant bills that are eligible for the short session and some that are no longer eligible. Please let us know if you have questions.

It has been our pleasure and our privilege to represent you this session. We're proud of what we've been able to accomplish together and look forward to seeing you soon. There is much to be done to ensure the progress we have made this session continues in 2014, and we will be hard at work to see that it does.

The Kochanek Law Group
Colleen Kochanek
Alex Miller
Elizabeth Taylor
Betsy Martin

LEGISLATION OF INTEREST

HOUSE BILL 4, UI Fund Solvency & Program Changes. This legislation overhauls the state's employment security system and was one of the first pieces of legislation signed into law by the Governor on February 19, 2013. The changes to the State's employment security laws include:

- identifying the four funds to be used to administer the provisions of the Employment Security Law: (1) the Employment Security Administration Fund; (2) the Supplemental Employment Security Administration Fund; (3) the Unemployment Insurance Fund; and (4) the Unemployment Insurance Reserve Fund;
- detailing contributions and payments by employers to the Unemployment Insurance Fund;
- replacing the current stepped tax schedules with an equation based on a reserve ratio to determine an employer's State Unemployment Tax Act (SUTA) contribution rate;
- imposing a surtax on employers required to contribute to the UI Fund that is equal to 20% of the contribution due; however, the tax would be suspended if the Unemployment Trust Fund has at least \$1 billion;
- provisions regarding the administration and collection of contributions, and the administration of employer accounts;
- setting the maximum weekly benefit at \$350 (the previous maximum was over \$500);
- providing for minimum and maximum duration of benefits tied to the current unemployment rate in the State that would be reduced substantially from the previous length of weekly benefits;
- allowing for the attachment and garnishment of fraudulent overpayment; and
- creating the Joint Legislative Oversight Committee on Unemployment Insurance to study and review all unemployment insurance matters, workforce development programs, and reemployment assistance efforts of the State. The Committee could report its findings and recommendations to any regular session of the General Assembly, and include any legislation needed to implement a recommendation.

Effective: July 1, 2013, and makes changes to (1) unemployment benefits or claims for benefits filed on or after July 1, 2013; and (2) require an account balance by an employer

that is a governmental entity or a nonprofit organization and that elects to finance benefits by making reimbursable payments in lieu of contributions apply to advance payments payable for calendar quarters beginning on or after July 1, 2013.

HOUSE BILL 14, Revenue Laws Technical, Clarifying & Administrative Changes. This legislation makes a wide variety of changes to State tax laws including direct mail, depreciation and tax basis. You should consult your tax professional regarding these changes and how they may affect your business or organization. **Effective: August 23, 2013.**

HOUSE BILL 74, Regulatory Reform Act of 2013. This legislation contains many of the provisions from both Senate Bill 112, Create Jobs Through Regulatory Reform, and the original House Bill 74, Amend Environmental Laws 2013. The legislation represents a major restructuring of many of the states existing regulatory schemes, and was one of the signature achievements of the Republican majority this session. It was also one of the most controversial bills of the session, with critics decrying it as a dismantling of crucial public health protections. Supporters countered that it represents a needed reduction of red tape and burdensome regulation, and a pro-business measure that will bring jobs to the state. The relevant portions of the new law:

PART I. IMPROVE RULE-MAKING PROCESS

- amends the Administrative Procedure Act to define *policy* as “any nonbinding interpretive statement within the delegated authority of an agency that merely defines, interprets, or explains the meaning of a statute or rule. The term includes any document issued by an agency which is intended and used purely to assist a person to comply with the law, such as a guidance document”;
- provides that, before an agency adopts a permanent rule change that would require the expenditure or distribution of funds subject to the State Budget Act, it must obtain certification from the Office of State Budget and Management that the funds required by the proposed rule change are available;
- requires the agency to submit the text of the proposed rule change, an analysis of the proposed rule change, and a fiscal note on the proposed rule change to the Office at the same time as the agency submits the notice of text for publication;
- amends the definition of *substantial economic impact* as an aggregate financial impact on all persons affected of at least \$1 million in a 12-month period (was, \$500,000);
- provides that the notice of the proposed text of a rule does not have to include the text of the proposed rule, if the rule is being readopted without *substantive* changes to the existing proposed rule in order to keep the permanent rule from expiring;
- provides for the periodic review and expiration of rules, detailing the process and timetable, including the automatic expiration of rules if not renewed by the agency;
- requires the Joint Legislative Administrative Procedure Oversight Committee to study the exemptions from rule making and for each exemption to evaluate the continued need for the exemption and the potential consequences of repeal of the exemption.

PART II. STATE AND LOCAL GOVERNMENT REGULATIONS

- provides that when a use constituting a violation of a zoning or unified development ordinance is in existence prior to adoption of the zoning or unified development ordinance creating the violation, and that use is grandfathered and subsequently terminated for any reason, a city or county must bring an enforcement action within 10

years of the date of the termination of the grandfathered status, unless the violation poses an imminent hazard to health or public safety;

- prohibits a city or county from requiring a private contractor to abide by any restriction that the city or county could not impose on all employers, such as paying minimum wage or providing paid sick leave to its employees, as a condition of bidding on a contract;
- requires the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services to amend its Records Retention and Disposition Schedule Manual to provide that if a Medicaid service has been eliminated by the State, the provider must retain records for three years after the last date of the service, unless a longer period is required by federal law;
- directs the Program Evaluation Division to evaluate the structure, organization, and operation of the various independent occupational licensing boards, and submit its findings and recommendations to the Joint Legislative Program Evaluation Oversight Committee and the Joint Legislative Administrative Procedure Oversight Committee at a date to be determined;
- prohibits a city or county from enacting or enforcing an ordinance, rule, or regulation that requires an employer to assume financial, legal, or other responsibility for the mitigation of the impact of their employees' commute or transportation to or from the employer's workplace, which may result in the employer being subject to a fine, fee, or other monetary, legal, or negative consequences;
- provides that a city or county may not enact an ordinance to regulate a field that is also regulated by a state or federal law enforced by an environmental agency or that regulates a field that is also regulated by a rule adopted by an environmental agency, unless the ordinance was approved by a majority of the members present and voting;
- directs the Environmental Review Commission to study the circumstances under which cities and counties should be authorized to enact ordinances (1) that regulate fields already regulated by federal or state statute and (2) that are more stringent than state or federal statute or state rule, and details reporting requirements;

PART III. BUSINESS AND LABOR REGULATIONS

- amends the provisions regarding child care providers' criminal history checks to require the criminal history check of a person required to be conducted by the Department of Health and Human Services to be completed within 15 business days of the receipt of the application from the child care provider. Also provides that if the check reveals no criminal history, DHHS is to make a determination of the fitness of the childcare provider within 15 calendar days of receiving the results of the criminal background check, however if the check reveals that the provider has a criminal history, then DHHS has 30 business days from the receipt of the criminal background check to make a determination of the fitness of the provider;
- allows notice of cancellation, termination, or nonrenewal of a workers' compensation insurance or employers' liability insurance policy written in connection with a policy of workers' compensation insurance to also be given by any method permitted for service of process pursuant to Rule 4 of the North Carolina Rules of Civil Procedure;
- provides that a principal contractor, intermediate contractor, or subcontractor who sublets any contract for the performance of work may not be held liable to any employee of such subcontractor if either (i) the subcontractor has a workers' compensation insurance policy in effect on the date of injury regardless of whether the principal contractor, intermediate contractor, or subcontractor failed to timely obtain a certificate from the subcontractor; or (ii) the policy expired or was cancelled prior to the date of injury provided the principal

contractor, intermediate contractor, or subcontractor obtained a certificate at any time before subletting such contract to the subcontractor and was unaware of the expiration or cancellation;

- allows a private, nonpublic employer in the State to provide a preference to a veteran for employment and to spouses of honorably discharged veterans who have a service-connected permanent and total disability, and provides that granting of this preference is not a violation of any State or local equal employment opportunity law;

PART IV. ENVIRONMENTAL AND PUBLIC HEALTH REGULATIONS

- requires the State Building Code to contain provisions requiring the installation of electrical carbon monoxide detectors at a lodging establishment, and requires lodging establishments to install carbon monoxide detectors in every enclosed space having a fossil fuel burning heater, appliance, or fireplace and in any enclosed space, including a sleeping room, that shares a common wall, floor, or ceiling with an enclosed space having a fossil fuel burning heater, appliance, or fireplace. Also directs the Building Code Council, DHHS, and the Commission for Public Health to jointly study the requirements for installing carbon monoxide detectors in lodging establishments to determine whether the requirements enacted by the above provision are adequate to protect the public health and safety of the traveling public;
- directs the Commission for Public Health to amend and clarify its rules for the implementation of the prohibition on smoking in restaurants and bars no later than January 1, 2014; and

PART V. AMEND ENVIRONMENTAL LAWS

- directs the Department of Environment and Natural Resources to study whether all of the counties covered under the emissions testing and maintenance program are needed to meet and maintain the current and proposed federal ozone standards in North Carolina, and to report its interim findings to the Environmental Review Commission on or before April 1, 2015, and submit a final report, including any findings and legislative recommendations, on or before April 1, 2016;
- amends CAMA minor permit notice requirements;
- provides an exemption from the 25 acre or more size requirement for local governments to enter into development agreements allowing the development of properties of any size provided the property is subject to an executed brownfields agreement;
- amends the definition of "built-upon area," for purposes of implementing stormwater programs, as impervious surface and partially impervious surface to the extent that the partially impervious surface does not allow water to infiltrate through the surface and into the subsoil. "Built-upon area" would not include a wooden slatted deck, the water area of a swimming pool, or gravel";
- allows a third party who is dissatisfied with a decision of the Environmental Management Commission regarding a water quality permit to file a contested case under the Administrative Procedure Act within 30 days after the Commission notifies the applicant or permittee of its decision;
- repeals Article 4A (*Vehicular Surface Areas*) of the Environmental Policy Act. Article 4A required that, "for land-disturbing activity that will result in an increase in vehicular surface area of one acre or more, either: (1) no more than eighty percent (80%) of the surface area of the vehicular surface area may be impervious surface, or (2) the stormwater runoff generated by the first two inches of rain that fall on at least twenty

percent (20%) of the vehicular service area during a storm event must flow to an appropriately sized bioretention area that is designed in accordance with the standards established by the Department”;

- directs the Department of Environment and Natural Resources to combine the Division of Water Quality and the Division of Water Resources to create a new Division of Water Resources, and makes conforming changes; and
- directs the Department of Environment and Natural Resources in conjunction with the Department of Transportation and DHHS, as well as local governments operating delegated permitting programs on behalf of the state departments, to study their internal processes for review of applications and plans submitted for approval. Areas of study and reporting requirements are detailed.

Effective: The majority of the provisions are effective August 23, 2013.

NOTE: The final version of this legislation did **NOT** include two controversial provisions that would have (1) provided that the rules governing the disclosure of hydraulic fracturing fluid chemicals must provide that the Mining and Energy Commission and DENR may review, but not possess or take ownership of, data and information related to chemicals used in hydraulic fracturing fluids that is designated as a trade secret. The Commission would have been required to develop rules that require public disclosure of such information that is designated as a trade secret through an online chemical registry; and (2) exempted the Mining and Energy Commission, the Environmental Management Commission, and the Commission for Public Health from the requirements to require to prepare fiscal notes for any rule proposed for the creation of a modern regulatory program for the management of oil and gas exploration and development activities in the State, including the use of horizontal drilling and hydraulic fracturing for that purpose.

HOUSE BILL 82, IRC Update, updates the reference to the Internal Revenue Code as enacted January 1, 2013, and decouples from certain provisions of the federal American Taxpayer Relief Act of 2012. The legislation also makes various other changes regarding adjustments and deductions to federal taxable income when determining state net income, estate tax, the work opportunity tax credit, the earned income tax credit, and adoption tax credits. **Effective: March 13, 2013, and applies to the estates of decedents dying on or after January 1, 2012. Amendments to the Internal Revenue Code enacted after January 1, 2012, that increase North Carolina taxable income for the 2012 taxable year become effective for taxable years beginning on or after January 1, 2013.**

HOUSE BILL 112, Modifications/2013 Appropriations Act, makes technical, clarifying, and other modifications to the 2013 Appropriations Act and related legislation, including:

- providing that funds appropriated to the Contingency and Emergency Fund may also be used (1) by the State Treasurer to pay authorized death benefits; (2) by the Office of the Governor for crime rewards; (3) by the Industrial Commission for supplemental awards of compensation; and (4) by the Department of Justice for legal fees;
- prohibiting the average class size for grades k-3 from exceeding the funded allotment ratio of teachers to students;
- allowing local school administrative units to have maximum flexibility to use allotted teacher positions to maximize student achievement for grades 4 – 12;
- requiring local boards of education to report exceptions to class size requirements for k-3 and significant increases in class size for other grades to the State Board;
- requiring all students in grades 8-10 who have completed or are in the last month of Algebra I to have an opportunity to take the PLAN precursor test to the ACT;

- providing that the North Carolina Institute of Medicine will be governed by a Board of Directors, and providing for the appointment of the Board by the Speaker of the House, President Pro Tem of the Senate, and the Governor;
- directing the State to pay 100% of the federal Medicare Part D clawback payments under the Medicare Modernization Act of 2004, P.L. 108-173, as amended;
- providing that the Medicaid Program will be administered and operated in accordance with this Part (GS 108A-54 - Medical Assistance Program) and the North Carolina Medicaid State Plan and Waivers, as periodically amended by the Department of Health and Human Services and approved by the federal government;
- requiring providers to follow the Department's established procedures for securing electronic payments, and prohibiting the Department from providing routine provider payments by check. Medicaid providers must file claims electronically, except that non-electronic claims submission may be required when it is in the best interest of the Department. Providers will submit Preadmission Screening and Annual Resident Reviews (PASARR) through the Department's web-based tool or through a vendor with interface capability to submit data into the web-based PASARR. Providers will submit provider enrollment applications online and requests for prior authorizations electronically via website, and will access their authorizations via online portals rather than receiving hard copies by mail. Providers shall receive copies of adverse decisions electronically, although recipients shall receive adverse decisions via certified mail;
- requiring (1) the NC Health Information Exchange to give the Department of Health and Human Services real-time access to data and information contained in the NC HIE; and (2) DHHS and the NC HIE to execute an agreement regarding the utilization and sharing of data and information contained in the HIE Network, which shall be in a manner that complies with HIPAA, the rules adopted under HIPAA, and any other applicable federal law;
- appropriating \$10 million from the Special Employment Security Administration Fund to the Unemployment Insurance Fund for the 2013-2014 fiscal year to make principal payments on advances made by the federal government; and
- requiring a person ordered to wear an electronic monitoring device as a condition of post-release supervision to pay a \$90 fee for the electronic monitoring device and a daily fee in an amount that reflects the actual cost of providing the electronic monitoring. The Commission may exempt a person from paying the fees only for good cause, and fees collected for the electronic monitoring device will be transmitted to the State's General Fund and the daily fees collected will be remitted to the Department of Public Safety to cover the costs of providing the electronic monitoring.

Effective: July 1, 2013.

HOUSE BILL 146, Back to Basics, requires the State Board of Education to ensure instruction in cursive writing and memorization of multiplication tables as a part of the Basic Education Program in public schools. **Effective: June 12, 2013, and applies beginning with the 2013-2014 school year.**

HOUSE BILL 149, Caylee's Law/Report Missing Children. This legislation was filed in response to a terrible case where several family members failed to report the death of a child to law enforcement. The legislation is called Caylee's law and includes the following provisions regarding missing children and concealing the death of a child:

- defines a child as “any person who is less than 16 years of age”;
- makes it a Class I felony, unless the conduct is covered under some other provision of law providing greater punishment, for a parent or other person providing care to or

supervision of a child to knowingly or wantonly fail to report the disappearance of a child to law enforcement;

- makes it a Class 1 misdemeanor, unless the conduct is covered under some other provision of law providing greater punishment, for a person who reasonably suspects the disappearance of a child and that the child may be in danger to fail to report those suspicions to law enforcement within a reasonable time;
- allows immunity from civil or criminal liability for a person who reports the disappearance of a child in good faith as required by this section;
- amends the statutes regarding felony child abuse to provide that a *grossly negligent omission* in providing care to or supervision of a child includes the failure to report a child as missing to law enforcement;
- makes it a Class H felony for a person who, with the intent to conceal the death of a child, fails to notify a law enforcement authority of the death or secretly buries or otherwise secretly disposes of a dead child's body;
- makes false reports to law enforcement agencies or officers punishable as a Class H felony if the false, deliberately misleading, or unfounded report relates to a law enforcement investigation involving the disappearance of a child or child victim of a Class A, B1, B2, or C felony offense;
- makes it a Class 1 misdemeanor for a person or institution to knowingly or wantonly fail to report to Social Services that a juvenile is abused, neglected, or dependent, or has died as the result of maltreatment (previous law required the report, but did not include a criminal charge); and
- provides that a director of social services who receives a report of sexual abuse of a juvenile in a child care facility and who knowingly fails to notify the State Bureau of Investigation of the report is guilty of a Class 1 misdemeanor.

Effective: December 1, 2013, and applies to offenses committed on or after that date.

HOUSE BILL 247, Freedom to Negotiate Health Care Rates. This legislation prohibits "Most Favored Nation" clauses in health care contracts and allows health providers and health insurers to freely negotiate reimbursement rates by prohibiting contract provisions that restrict rate negotiations. No contract provisions related to reimbursement rates with a health care provider could do any of the following:

- (1) prohibit, or grant a health insurance carrier an option to prohibit, the provider from contracting with another health insurance carrier to provide health care services at a rate that is equal to or lower than the payment specified in the contract;
- (2) require the provider to accept a lower payment rate in the event that the provider agrees to provide health care services to any other health insurance carrier at a rate that is equal to or lower than the payment specified in the contract;
- (3) require, or grant a health insurance carrier an option to require, termination or renegotiation of an existing health care contract in the event that the provider agrees to provide health care services to any other health insurance carrier at a rate that is equal to or lower than the payment specified in the contract;
- (4) require, or grant a health insurance carrier an option to require, the provider to disclose, directly or indirectly, the provider's contractual rates with another health insurance carrier;
- (5) require, or grant a health insurance carrier an option to require, the non-negotiated adjustment by the issuer of the provider's contractual rate to equal the lowest rate the provider has agreed to charge any other health insurance carrier; or

- (6) require, or grant a health insurance carrier an option to require, the provider to charge another health insurance carrier a rate that is equal to or more than the reimbursement rate specified in the contract.

Effective: October 1, 2013, and applies to contracts entered into, renewed, or amended on or after that date. Neither this act nor any legislative history of its passage shall be construed to affect any litigation pending at the time this act becomes effective. This legislation was strongly supported by the North Carolina College of Emergency Physicians.

HOUSE BILL 345, Increase Penalties for Misuse of 911 System, makes it a Class 1 misdemeanor for an individual who is not seeking public safety assistance, providing 911 service, or responding to a 911 call to knowingly access or attempt to access the 911 system for a purpose other than an emergency communication. The legislation also amends the appointments to the 911 Board to include a sheriff recommended by the North Carolina Sheriffs' Association and a chief of police as recommended by the North Carolina Association of Chiefs of Police.

Effective: December 1, 2013, and applies to offenses committed on or after that date.

HOUSE BILL 399, Amend Laws Pertaining to DHHS, makes various changes requested by the Department of Health and Human Services to laws pertaining to child abuse, neglect, and dependency; Medicaid; and public health. These changes include:

- requiring, prior to filing the proof of notice required by G.S. 28A-14-2, every personal representative and collector to also personally deliver or send by first class mail to the last known address a copy of the notice required to the Department of Health and Human Services, Division of Medical Assistance if at the time of the decedent's death the decedent was receiving medical assistance;
- providing that, if a trust was established by a person who at the time of that person's death was receiving medical assistance, and the trust was revocable at the time of that person's death, then the trustee of that trust who knows of the medical assistance within 90 days of the person's death must provide notice of that person's death to the Department of Health and Human Services, Division of Medical Assistance. This section does not apply to trustees of pre-need funeral trusts;
- amending the Limited and Moderate Categorical Risk Provider Types under Medicaid and Health Choice;
- requiring a certificate of live birth to be filed within 10 days after the birth; and
- requiring all health care facilities and health care providers that detect, diagnose, or treat cancer or benign brain or central nervous system tumors to submit by electronic transmission a report within six months after diagnosis to the central cancer registry each diagnosis of cancer or benign brain or central nervous system tumors in any person who is screened, diagnosed, or treated by the facility or provider no later than October 1, 2014 in a format prescribed by the Centers for Disease Control and Prevention, National Program of Cancer Registries.

Effective: Most of the provisions are effective October 1, 2013.

HOUSE BILL 459, Chronic Care Coordination Act, requires the Divisions of Public Health and Medical Assistance and the Division in the Department of State Treasurer responsible for the State Health Plan for Teachers and State Employees to collaborate to reduce the incidence of chronic disease and improve chronic care coordination within the State. The Divisions must identify goals and benchmarks for the reduction of chronic disease, and develop wellness and prevention plans specifically tailored to each of the Divisions. **Effective: June 26, 2013.**

HOUSE BILL 467, Breast Density Notification & Awareness, requires all health care facilities that perform mammography examinations to include in the summary of the mammography report, information that identifies the patient's individual breast density classification based on the Breast Imaging Reporting and Data System established by the American College of Radiology. If the facility determines that a patient has heterogeneously or extremely dense breasts, the summary of the mammography report shall include the following notice: "Your mammogram indicates that you may have dense breast tissue. Dense breast tissue is relatively common and is found in more than forty percent (40%) of women. The presence of dense tissue may make it more difficult to detect abnormalities in the breast and may be associated with an increased risk of breast cancer. We are providing this information to raise your awareness of this important factor and to encourage you to talk with your physician about this and other breast cancer risk factors. Together, you can decide which screening options are right for you. A report of your results was sent to your physician." Patients who receive diagnostic or screening mammograms may be directed to informative material about breast density. **Effective: January 1, 2014.**

HOUSE BILL 492, Safeguard Qualified Individuals – Medicaid PCS, requires the Department of Health and Human Services to: (1) reduce the rate for personal care services to fund the additional service hours for certain cases and to remain within the budgeted amount of funds for personal care services; and (2) submit a Medicaid State Plan Amendment necessary to implement this act to the Centers for Medicare and Medicaid Services on or before August 15, 2013. **Effective: July 18, 2013.**

HOUSE BILL 532, No Drinking in EMS and Law Enforcement Vehicles, makes it unlawful for a person to operate an ambulance, law enforcement vehicle, or EMS vehicle on any highway, street, or public vehicular area within the State while consuming alcohol or while alcohol remains in his or her body. This does not apply to law enforcement officers acting in the course of, and within the scope of, their official duties. **Effective: December 1, 2013, and applies to offenses committed on or after that date.**

HOUSE BILL 533, Hospital Police Power in Ashe County. This legislation provides that, if a law enforcement officer leaves a facility after finding, in collaboration with the facility, that the respondent is safe to be temporarily detained under the appropriate supervision provided by the facility, a company police officer who is employed by the hospital may use appropriate and reasonable force and means to: (1) keep the respondent at the facility where the respondent is to be detained; and (2), if pursuant to a continuous and immediate pursuit, return the respondent to the facility where the respondent is to be detained. This provision applies only to Ashe, Cumberland, and Wilkes Counties. **Effective: June 18, 2013.**

HOUSE BILL 589, VIVA/Election Reform. This controversial legislation is better known as the Voter ID bill, as it includes a requirement that, beginning in 2016, voters casting a ballot in person must present a photo ID in order to vote. This requirement is only one of the many voting-law changes included in the legislation; however, and many of the other provisions are equally controversial, such as the end of straight-ticket balloting and same-day registration, a reduction in the number of early-voting days, and increasing the maximum contribution to campaigns. Critics of the measure say it is a thinly-veiled attempt to disenfranchise poor and minority participation in elections, while supporters charge that the legislation protects the integrity of elections and brings our voting laws into alignment with most other states'. The legislation makes the following changes (most notable changes are bolded):

- **requires all individuals voting in person to present photo identification (effective beginning in 2016).** The legislation allows voters without ID to cast a provisional ballot, which will only be counted if the voter’s eligibility can be verified after the fact;
- specifies the forms of acceptable photo identification (which does NOT include college ID's), details exceptions to the requirement, and includes provisions regarding the declaration of a religious objection to being photographed. A registered voter could obtain a special identification card without paying a fee, if he or she signs a sworn statement stating he or she is registered to vote, does not have other acceptable photo identification, and that paying the fee would present a financial hardship;
- requires information regarding the photo identification requirement for voting in person to be included in the Judicial Voter Guide, and voters in elections between October 1, 2013 and January 1, 2016, must be notified that photo identification will be needed to vote beginning in 2016. These voters will be advised if they have one of the forms of photo identification appropriate for voting, but will not be required to present such identification before voting;
- **codifies the rule that voters are not required to offer an excuse to receive an absentee ballot;**
- **eliminates the ability of 16 and 17-year olds to preregister,** and allows 17-years olds to register only if they will turn 18 by Election Day;
- prohibits groups from paying employees based on the number of registrations they obtain. Voter registration groups can still pay signature gatherers, but only by the hour or with a salary;
- **eliminates “one-stop” same day registration during early voting;**
- **eliminates the requirement that the state conduct a voter registration drive;**
- **cuts the number of days on which early voting can occur,** but requires that each polling place must be open the same number of hours as they were in 2010 and 2012;
- **eliminates straight-ticket voting;**
- **requires the state to hold its nominating contests the Tuesday following South Carolina’s primary** if South Carolina holds it primary before the 15th of March (otherwise: the first Tuesday in May). This provision has elicited strong responses from both political parties (including the threat of severely decreasing the state’s delegate totals), if it is implemented;
- eliminates the \$3 tax check-off box, which allowed voters to put money into a fund that went to state parties, allocated by the number of registered voters a party had;
- **ends public financing of judicial elections and Council of State elections,** and directs the remaining fund balances be used to finance production of the Judicial Voter Guide, until the funds are exhausted;
- raises contribution limits to \$5000 (from \$4000) per election cycle and provides for increases every two years based on the Consumer Price Index (CPI), rounded to the nearest hundred;
- **repeals the “stand by your ad” rule that required a candidate appear in his or her own campaign ad approving the message. A small text claim of credit, along with a picture of the candidate, is required in television advertising to appear for at least 2 seconds;**
- **prohibits lobbyists from bundling, delivering or possessing contributions, including a contribution from their clients;**
- repeals the term “election district,” which was used in previous elections to determine eligibility for those who voted in a precinct other than their own within the same district, and **limits eligibility of provisional ballots to those cast in the correct precinct or a**

predetermined central location. Provisional ballots cast in any other precinct will not be considered valid;

- **allows a party to use unlimited donations from individuals and corporations on things like rent for party office space, utilities, and up to three administrative staffers who don't work on political activities** (such as accountants, human resource staffers or those who prepare and file campaign finance reports);
- **eliminates the current requirement for print media advertisements (supporting or opposing the nomination or election of one or more clearly identified candidates that is an independent expenditure, or an electioneering communication), that the sponsor disclose the names of the individuals or persons making the five largest donations to the sponsor within the six-month period prior to the purchase of the advertisement if those donations are required to be reported.**

Effective: January 1, 2014, except as detailed in the legislation. The Voter ID requirement is effective beginning in 2016.

HOUSE BILL 635, Involuntary Commitment Custody Orders. This legislation allows a clerk or magistrate to issue an involuntary inpatient commitment custody order by facsimile or electronic transmission to a petitioning physician, eligible psychologist, or designee at a 24-hour facility when the respondent is already physically present at the facility and the clerk or magistrate finds probable cause to believe that the respondent meets the criteria for inpatient commitment. Upon receipt of the custody order, the physician, eligible psychologist, or designee at the 24-hour facility must immediately: (1) notify the respondent that he or she is not under arrest and has not committed a crime but is being taken into custody to receive treatment and for his or her own safety and the safety of others; (2) take the respondent into custody; and (3) complete and sign the appropriate portion of the custody order and return the order to the clerk or magistrate either by facsimile transmission or by scanning it and sending it by electronic transmission. The physician or eligible psychologist, or a designee, must mail the original custody order no later than five days after returning it by means of fax or electronic transmission to the clerk or magistrate. However, a clerk or magistrate may not issue a custody order to a physician or eligible psychologist at a 24-hour facility, or a designee, if the physician or eligible psychologist, or a designee, has not completed training in proper service and return of service. The legislation also (1) directs the Department of Health and Human Services to cooperate and collaborate with the Administrative Office of the Courts and the UNC School of Government to develop protocols, including a procedure for notifying clerks and magistrates of the names of the physicians, psychologists, and designees who have completed the training; and (2) requires the Department of Health and Human Services to review and update its list of facilities designated for the custody and treatment of involuntary commitment patients. **Effective: October 1, 2013.**

HOUSE BILL 669, 2013 Appointments Bill, appoints persons to various boards and commissions based upon the recommendations of the President Pro Tempore of the Senate and the Speaker of the House of Representatives. Generally, many of these boards and commissions also have appointees from the Governor's office. **Effective: July 25, 2013.**

SPEAKER'S APPOINTMENTS

- The Honorable Dan Ingle of Alamance County is appointed to the North Carolina Emergency Medical Services Advisory Council for a term expiring on December 31, 2014, to fill the unexpired term of the Honorable William Wainwright.
- The Honorable Stan Haywood of Randolph County, Ashley M. Honeycutt of Wake County, Representative Tom Murry of Wake County, Representative Mark Hollo of

Alexander County, Representative Becky Carney of Mecklenburg County, Wanda Moore of Chowan County, and Leigh Foushee of Johnston County are appointed to the Justus-Warren Heart Disease and Stroke Prevention Task Force for terms expiring on June 30, 2015.

PRESIDENT PRO TEMPORE'S APPOINTMENTS

- Helen Brann of Person County, Shonda Corbett of Wake County, David Huang of Orange County, the Honorable Austin Allran of Catawba County, Glenn Martin of Rockingham County, the Honorable Louis Pate of Wayne County, the Honorable David L. Curtis of Lincoln County, and Mike Patil of Orange County are appointed to the Justus-Warren Heart Disease and Stroke Prevention Task Force for terms expiring on June 30, 2015.
- Jim Gusler of Caswell County is appointed to the North Carolina Emergency Medical Services Advisory Council for a term effective July 25, 2013, and expiring on December 31, 2015.
- Traci M. Little of Alamance County is appointed to the North Carolina Emergency Medical Services Advisory Council for a term effective January 1, 2014, and expiring on December 31, 2017.

HOUSE BILL 683, Commonsense Consumption Act, better known as the “Big Gulp Bill,” prohibits local governments from enacting ordinances restricting the sale of soft drinks above a particular size. The bill also limits the liability of a packer, distributor, manufacturer, carrier, holder, seller, marketer, or advertiser of food, or an association of one or more such entities for any claim arising out of weight gain, obesity, a health condition associated with weight gain or obesity, or other generally known conditions allegedly caused by or likely to result from long-term consumption of food, with certain exceptions detailed. **Effective: The prohibition on local governments enacting ordinances restricting the sale of soft drinks above a particular size is effective July 18, 2013; the remainder of bill is effective October 1, 2013.**

HOUSE BILL 813, Ban Synthetic Cannabinoids, makes it unlawful to manufacture, possess, sell, use, or deliver any synthetic cannabinoid. The legislation defines synthetic cannabinoids as any quantity of any synthetic chemical compound that (i) is a cannabinoid receptor agonist and mimics the pharmacological effect of naturally occurring substances or (ii) has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is not listed as a controlled substance in Schedule I through V, and is not an FDA-approved drug. **Effective: July 1, 2013, and applies to offenses committed on or after that date. Prosecutions for offenses committed before that date are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.**

HOUSE BILL 832, Expand Pharmacists' Immunizing Authority. This legislation provides that an immunizing pharmacist may administer the following vaccinations or immunizations to persons at least 18 years of age: (1) pneumococcal polysaccharide or pneumococcal conjugate vaccines; (2) herpes zoster vaccine; (3) hepatitis B vaccine; (4) meningococcal polysaccharide or meningococcal conjugate vaccines; and (5) tetanus-diphtheria, tetanus and diphtheria toxoids and pertussis, tetanus and diphtheria toxoids and acellular pertussis, or tetanus toxoid vaccines. Authorizes an immunizing pharmacist to administer the influenza vaccine to persons at least 14 years of age, and allows pharmacists who were qualified to administer influenza, pneumococcal, and zoster vaccines before the effective date to continue to administer these vaccines, including to individuals at least 14 years old, until June 30, 2014 (effective July 3, 2013).

An "immunizing pharmacist" is defined as a licensed pharmacist who meets all of the following qualifications:

- (1) Holds a current provider level cardiopulmonary resuscitation certification issued by the American Heart Association or the American Red Cross, or an equivalent certification.
- (2) Has successfully completed a certificate program in vaccine administration accredited by the Centers for Disease Control and Prevention, the Accreditation Council for Pharmacy Education, or a similar health authority or professional body approved by the Board.
- (3) Maintains documentation of three hours of continuing education every two years, designed to maintain competency in the disease states, drugs, and vaccine administration.
- (4) Has successfully completed training approved by the Division of Public Health's Immunization Branch for participation in the North Carolina Immunization Registry.
- (5) Has notified the North Carolina Board of Pharmacy and the North Carolina Medical Board of immunizing pharmacist status.
- (6) Administers vaccines or immunizations in accordance with G.S. 90-18.15B.

The legislation also directs representatives of the North Carolina Academy of Family Physicians, the North Carolina Medical Society, the North Carolina Pediatric Society, the North Carolina Association of Community Pharmacists, the North Carolina Association of Pharmacists, and the North Carolina Retail Merchants Association to cooperate and collaborate to recommend a minimum standard screening questionnaire and safety procedures for written protocols for vaccinations or immunizations (if they are unable to do so, the Immunization Branch of the North Carolina Division of Public Health will develop them). **Effective: Except as noted, October 1, 2013.**

HOUSE BILL 834, Modern State Human Resources Management/RTR. This legislation, which makes various revisions to the statutes regarding the State Personnel System, also enacts the Health Care Cost Reduction and Transparency Act of 2013 to improve transparency in health care costs by requiring certain information on the costs of the most frequently reported diagnostic related groups (DRGs) for hospital inpatient care and the most common surgical procedures and imaging procedures provided in hospital outpatient settings and ambulatory surgical facilities to be made available to the public.

The legislation requires the NC Department of Health and Human Services (DHHS) to provide public access to the most current information it receives from hospitals and ambulatory surgical facilities on its website in a manner that is easily understood by the public and meets minimum requirements. Beginning June 30, 2014, and updated quarterly, each licensed hospital must provide to DHHS, utilizing electronic health records software, the following information about the 100 most frequently reported admissions for inpatients:

- (1) the amount that will be charged to a patient for each DRG if all charges are paid in full without a public or private third party paying for any portion of the charges;
- (2) the average negotiated settlement on the amount that will be charged to a patient required to be provided;
- (3) the amount of Medicaid reimbursement for each DRG, including claims and pro rata supplemental payments;
- (4) the amount of Medicare reimbursement for each DRG; and
- (5) the range and the average of the amount of payment made for each DRG for the five largest health insurers providing payment to the hospital on behalf of insureds and teachers and State employees.

A hospital must provide this information to a patient upon request, in writing, within three business days after receiving the request.

All licensed ambulatory surgical facilities must present an itemized list of charges to all discharged patients, and patient bills that are not itemized must include notification to the patient of the right to request an itemized bill free of charge. A patient may request an itemized list of charges at any time within three years after the date of discharge or so long as the hospital or ambulatory surgical facility, a collections agency, or another assignee of the hospital or ambulatory surgical facility asserts the patient has an obligation to pay the bill. In addition, the legislation requires hospitals and ambulatory surgical facilities to establish a method for patients to inquire about or dispute a bill, and includes certain “reasonable collections practices” by which they must abide. The Commission will adopt rules to ensure that this section is properly implemented, and the Department may not issue or renew a license unless the applicant has demonstrated that these requirements are being met.

The legislation also: (1) makes it unlawful for any provider of health care services to charge or accept payment for any health care procedure or component of any health care procedure that was not performed or supplied; (2) requires health care providers to provide to a patient or prospective patient, upon request, information on the provider's network status with a particular health benefit plan; and (3) requires any hospital that has an electronic health record system to connect to the NC Health Information Exchange and submit individual patient demographic and clinical data on services paid for with Medicaid fund. **Effective: October 1, 2013, and applies to hospital and ambulatory surgical facility billings and collections practices occurring on or after that date. The NC HIE provision is effective January 1, 2014.**

HOUSE BILL 850, Possession of Needles/Tell Law Officer, provides that a person who alerts an officer of the presence of a hypodermic needle or other sharp object on his or her person, on the person's premises, or in the person's vehicle prior to a search by the officer will not be charged with possession of drug paraphernalia for possession of the needle or other sharp object. The exemption does not apply to any other drug paraphernalia that may be present and found during the search. **Effective: December 1, 2013, and applies to offenses committed on or after that date.**

HOUSE BILL 937, Amend Various Firearms Laws. This legislation includes a wide variety of changes to North Carolina gun laws and a loosening of rules for those with concealed carry permits. The fate of this bill was unknown headed into the end of session, specifically because of a controversial provision added by the Senate which would have repealed the existing handgun purchase permit law (which requires any North Carolina resident to acquire a permit from the sheriff in the county where they reside before acquiring a handgun). This provision was opposed by the North Carolina Sherriff’s Association, the Governor and the House, and was not included in the final version. The final version of the legislation:

- allows Concealed Handgun Permit (hereafter CHP) holders to transport their handguns in their motor vehicle while on all school property and store their handguns in their locked vehicles while parked on educational property (including public, nonpublic and higher/secondary education institutions);
- allows employees of residential education institutions or higher/secondary education institutions to possess handguns on institutional property, in certain conditions. This provision applies to both public and nonpublic institutions except those nonpublic institutions that have adopted specific prohibitions to the contrary (the provision allowing CHP holders to transport firearms on educational properties summarized above would still apply to nonpublic institutions that have adopted such a prohibition, however);

- removes the prohibition on CHP holders from carrying into a place where tickets are sold for admission;
- amends the existing prohibition on allowing children under the age of 12 from accessing firearms by replacing the existing exemption (“when the child is under the supervision of the parent, guardian or person standing in loco parentis”) with an exemption for a child under the supervision of any adult, as long as they have the permission of the child’s parent or guardian;
- creates an enhanced sentence for defendants who “used, displayed, or threatened to use or display a firearm or deadly weapon during the commission of the felony” convicted of Class A, B1, B2, C, D or E felonies by increasing the minimum term by 72 months, for Class F or G felonies by increasing the minimum term by 36 months, and Class H or I felonies by increasing the minimum term by 12 months;
- creates statewide uniformity by prohibiting local governments from adopting ordinances that prohibit, by posting, the carrying of a concealed handgun on municipal and county recreational facilities that are specifically identified. In the previous law, the term "recreational facilities" includes only the following: a playground, an athletic field, a swimming pool, and an athletic facility. **The new law amends this list by removing “a playground”** and defining “athletic field,” “swimming pool” and “facility used for athletic events,” as well as detailing areas that are specifically not included in the definition of “recreational facilities”;
- makes amendments to the reporting process of the records of individuals to the National Instant Criminal Background Check System (NICS). The following will require transmitting a record to NICS no less than 48 hours after receiving notice:
 - a determination that an individual shall be involuntarily committed to a facility for inpatient mental health treatment upon a finding that the individual is mentally ill and dangerous to self or others.
 - a determination that an individual shall be involuntarily committed to a facility for outpatient mental health treatment upon a finding that the individual is mentally ill and, based on the individual's treatment history, in need of treatment in order to prevent further disability or deterioration that would predictably result in danger to self or others.
 - a determination that an individual shall be involuntarily committed to a facility for substance abuse treatment upon a finding that the individual is a substance abuser and dangerous to self or others;
 - a finding that an individual is not guilty by reason of insanity;
 - a finding that an individual is mentally incompetent to proceed to criminal trial;
 - a finding that an individual lacks the capacity to manage the individual's own affairs due to illness, incompetency, or disease;
 - a determination to grant a petition to an individual for the removal of disabilities pursuant to GS 122C-54.1 or other applicable federal law;
- allows an individual over age 18 to petition for the removal of limitations arising out of determinations or findings that prevent the purchasing, possessing, or owning of a firearm upon the expiration of any commitment;
- require that sheriffs keep confidential both the list of CGP permittees and the information collected in processing applications, and specifies that such information is not public record, but requires sheriffs make such information available to other law enforcements officials and requires the State Bureau of Investigation (SBI) make such information available to law enforcement officers statewide. The requirement to share such information with clerks of court on a statewide system is eliminated;

- increases the penalty for CHP holders who carrying a concealed weapon on property with a posted notice of prohibition, or for carrying a concealed weapon while consuming alcohol, from Class 2 to Class 1 misdemeanor;
- requires gun dealers to keep confidential records of sales, except that dealers are required to make the records available to all state and local law enforcement agencies upon request;
- allows Concealed Handgun Permit (CHP) holders (or those exempt from the permit requirement) to carry firearms into a restaurant that serves alcohol;
- exempts North Carolina district court or superior court judges, magistrates, clerks of court, or registers of deeds that have a CHP from prohibitions on carrying a concealed firearm in certain areas, including courthouses (provides that this exemption does not apply to assistants, deputies, or other employees of the clerk of court or register of deeds);
- restricts access to the database of CHP permittees by limiting it to law enforcement purposes and specifies confidentiality requirements;
- allows CHP holders to carry firearms during a parade or funeral unless the property owner has posted a specific prohibition to the contrary;
- requires sheriffs, when denying a handgun permit application, to cite the specific facts that led to the decision to deny the application. Requires sheriffs to maintain a list of permit denials (excluding identifying information) and to make such lists public. Also requires the clerk of superior court to transmit, within 48 hours of receipt, a record of judicial findings, court orders, or other factual matters relevant to the permit disqualification to the National Instant Criminal Background Check System (NICS);
- reduces from 30 to 14 days the time by which a sheriff must notify an applicant of the decision to grant or deny the application
- establishes and details a revocation requirement for individuals issued a permit who later become prohibited from purchasing or possessing a firearm, and requires sheriffs to review, by January 21, 2014, existing permits to determine if any are subject to revocation (this provision is effective when it becomes law);
- removes the prohibition on using firearms with sound suppressing devices (silencers) when otherwise lawfully hunting;
- creates the status offense “Armed Habitual Felon” (defined as “any person who has been convicted of or pled guilty to one or more prior firearm-related felony offenses in any federal court or state court in the United States”) and details requirements for judgment, sentencing, exemptions and procedures. Establishes that the minimum sentence for those convicted of the status offense is 120 months, and that the sentence may not be suspended and the person is ineligible for probation; and
- requires the Administrative Office of the Courts and each sheriff to report on the implementation of the requirement and the review of existing permits (respectively) to the Joint Legislative Oversight Committee on Justice and Public Safety.

Effective: Except as noted, October 1, 2013.

HOUSE BILL 980, Medicaid/2012-2013 Additional Appropriations. This legislation was approved in May to cover shortfalls in the Medicaid budget before the end of the fiscal year (June 30th) by providing an amount not to exceed \$451 million to cover the projected budget shortfall of \$333 million and the repayment of Medicaid federal drug rebates totaling \$118 million. **Effective: May 30, 2013.**

HOUSE BILL 982, Modify Medicaid Subrogation Statute. This legislation modifies the Medicaid subrogation statute in response to the United States Supreme Court decision in *Wos v. E.M.A.* The legislation requires a personal injury or wrongful death claim brought by a medical assistance beneficiary against a third party to include a claim for all medical assistance payments for health care items or services furnished to the medical assistance beneficiary as a result of the injury (the “Medicaid claim”). If the amount of the Medicaid claim does not exceed one-third of the medical assistance beneficiary's gross recovery, it is presumed that the gross recovery includes compensation for the full amount of the Medicaid claim. If the amount of the Medicaid claim exceeds one-third of the medical assistance beneficiary's gross recovery, it is presumed that one-third of the gross recovery represents compensation for the Medicaid claim. The legislation also allows a beneficiary to dispute these presumptions by applying to the court for a determination of the portion of the beneficiary’s gross recovery that represents compensation for the Medicaid Claim, and provides issues the court must consider in making its determination. The medical assistance beneficiary and the Department may reach an agreement on the portion of the recovery that represents compensation for the Medicaid claim, and, if an agreement is reached after an application has been filed, a stipulation of dismissal of the application signed by both parties must be filed with the court. In addition, the medical assistance beneficiary or his or her attorney must notify the Department of the receipt of the proceeds within 30 days of receipt of the proceeds of a settlement or judgment related to the claim. The legislation also includes provisions for the distribution of the proceeds to the Department, and allows the Department to apply to the court for enforcement of these provisions. **Effective: July 18, 2013, and applies to Medicaid claims (i) that arise on or after that date and (ii) arising prior to that date for which the Department has not been paid in full. For Medicaid claims that arose prior to the effective date of this act for which the Department has not been paid in full, the medical assistance beneficiary shall have 90 days from the effective date of this act within which to apply to the court.**

HOUSE BILL 998, Tax Simplification and Reduction Act. Tax Reform was the big issue that the Republicans were going to tackle this year, and Senate sponsors worked hard on their version of their plan and proudly released it to the public. Reaction was less than enthusiastic once it was clear that the plan included proposal to tax a large number of currently exempt service, as well as new taxes on groceries, prescription drugs and social security income. The rollout included a website that could be used to determine how much your individual tax burden would change. Contrary to claims by the plan’s sponsors, once the public and the press started looking at the plan it was revealed that many taxpayers would in fact pay a great deal more for taxes, especially those with lower incomes. The House proposed their own version of tax reform and then the Governor appeared to be the negotiator in the middle trying to bridge the two chambers. There was a great deal of pressure on all of the players as the budget was being held up since they needed the tax plan to determine how much revenue they would have to spend. After much behind the scenes debate and negotiations a plan was approved by both chambers.

Despite being referred to by sponsors and supporters as a “tax reform” bill, the final version of this legislation is less a major reformation of the state’s system of taxation (by broadly expanding the number of goods and services that are subject to tax, for example), and more a series of tax rate cuts, loophole closures, and credit eliminations. While supporters contend that the legislation provides relief to all ratepayers, the legislature’s Fiscal Research Division prepared a chart detailing several scenarios in which ratepayers would pay between hundreds and thousands more per year once the plan is enacted.

Regarding the most contentious issues, the legislation:

- does NOT eliminate the deduction on mortgage interest and property tax, as a previous Senate version did, but includes a \$20,000 cap on the mortgage interest deduction (compared to \$15,000 the Senate version and \$25,000 in the House version).
- does include an expansion of the sales tax to include the installation, repair or maintenance of durable goods. The sales tax base is slightly expanded, to include service contracts and certain entertainment entrance fees.
- eliminates the estate tax.
- eliminates the \$50,000 small business tax credit established in 2011.
- includes a cap on the sales tax rebate that can be taken by nonprofits, including large nonprofits like hospitals and universities; however, the cap was raised to \$45 million (compared to \$2.85 million in the latest Senate version and \$100,000 in the original Senate version. The House version did not amend the current sales tax rebate for nonprofits). The \$45 million cap is only expected to affect one hospital system in the state, but advocates for hospitals have voiced concern that the cap may be lowered in future years as a means to increase revenue for the state. Additionally, the Revenue Law Study Committee is tasked in the bill with a further review of the issue.
- does NOT eliminate the Corporate Income Tax (CIT), but would reduce it from the current 6.9% to 6% in 2014 and 5% in 2015, with the possibility (based on the state hitting certain established targets) of further reductions to 4% in 2016 and 3% in 2017. If the targets are not met, the rate will remain at 5%.
- reduces Personal Income Tax (PIT) to a flat 5.8% rate in 2014 and 5.75% rate in 2015 and beyond (from the current three-tier system based on income level).

A chart containing a comparison of the legislation against the previous House and Senate versions of H998 is attached. **Effective: The majority of the provisions are effective July 23, 2013.**

HOUSE JOINT RESOLUTION 1023, Adjournment Resolution. This joint resolution adjourns the 2013 regular session of the General Assembly until Wednesday, May 14, 2014 (the short session), and limits the matters that may be considered at that time. When the regular session reconvenes, only the following matters may be considered:

- bills directly and primarily affecting the State budget;
- bills amending the State Constitution;
- bills and resolutions introduced in 2013 and having passed third reading in 2013 in the house in which introduced, received in the other house, and not disposed of in the other house by tabling, unfavorable committee report, indefinite postponement, or failure to pass any reading and which do not violate the rules of the receiving house(bills that have made the cross-over deadline);
- bills and resolutions implementing the recommendations of:
 - study commissions, authorities, and statutory commissions authorized or directed to report to the 2014 Regular Session;
 - the General Statutes Commission, the Courts Commission, or any commission created under Chapter 120 of the General Statutes that is authorized or directed to report to the General Assembly;
 - the House Ethics Committee;
 - select committees; or
 - the Joint Legislative Ethics Committee or its Advisory Subcommittee.
- a local bill that is noncontroversial, and that the bill is approved for introduction by each member of the House of Representatives and the Senate whose district includes the area to which the bill applies;

- selection, appointment, or confirmation of members of State boards and commissions as required by law;
- any matter authorized by joint resolution passed by a two-thirds majority of the members of the House of Representatives present and voting and by a two-thirds majority of the members of the Senate present and voting;
- a joint resolution authorizing the introduction of a bill;
- bills primarily affecting any State or local pension or retirement system;
- joint resolutions, House resolutions, and Senate resolutions;
- bills:
 - revising the Senate districts and the apportionment of senators among those districts;
 - revising the Representative districts and the apportionment of representatives among those districts;
 - revising the districts for the election of members of the House of Representatives of the Congress of the United States and the apportionment of representatives among those districts;
 - bills responding to actions related to the Voting Rights Act of 1965;
 - bills responding to actions related to litigation concerning Congressional, State House, or State Senate districts;
- bills vetoed by the Governor with objections, but solely for the purpose of considering overriding the veto upon reconsideration of the bill.
- bills relating to election laws;
- bills to disapprove rules under the Administrative Procedure Act; and
- a joint resolution adjourning the 2013 Regular Session, sine die.

The resolution also allows the Speaker of the House and the President Pro Tempore of the Senate to authorize appropriate committees or subcommittees to meet during the interims between sessions to: (1) review matters related to the State budget for the 2013-2015 fiscal biennium; (2) prepare reports, including revised budgets; or (3) consider any other matters as the Speaker of the House or the President Pro Tem of the Senate deems appropriate. Since a Studies Bill was not approved during the long session, this authority will allow the Speaker and the President Pro Tem to decide what issues to study in the interim. **Effective: July 26, 2013.**

SENATE BILL 4, No NC Exchange/No Medicaid Expansion. This legislation was moved very quickly at the beginning of the session and prohibits North Carolina from expanding Medicaid under the Accountable Care Act and rejects Federal funds to cover the uninsured. The legislation also provides that North Carolina will not participate in running their own Health Care Exchange or partner with the Federal government in operating an exchange. The legislation includes the following:

- states that the General Assembly reserves the authority to define the State's level of interaction, if any, with the federally facilitated Health Benefit Exchange that will operate in the State;
- prohibits any State department, agency, or institution from (1) entering into any contracts or committing any resources for the provision of any services related to the federally facilitated Health Benefit Exchange under a "Partnership" Exchange model, except as authorized by the General Assembly, or (2) taking any actions not authorized by the General Assembly toward the formation of a State-run Health Benefit Exchange;
- directs the Department of Insurance and the Department of Health and Human Services to cease all expenditures funded by certain federal Exchange-related grants;

- requires the Department of Health and Human Services to ensure that the North Carolina Families Accessing Services through Technology (NC FAST) information technology system can provide Medicaid eligibility determinations for the federally facilitated Health Benefit Exchange that will operate in North Carolina and to provide such determinations for the Exchange;
- directs DHHS to seek available 90/10 Medicaid funding for NC FAST's ability to provide Medicaid eligibility determinations for the federally facilitated Health Benefit Exchange, if (1) funds for a State match are available from existing appropriations for NC FAST, and (2) the total amount of State matching funds does not exceed \$5 million;
- **rejects the Affordable Care Act's optional Medicaid expansion, and prohibits any State department, agency, or institution from attempting to expand the Medicaid eligibility standards unless directed to do so by the General Assembly.**

Effective: March 6, 2013.

SENATE BILL 11, Establish Organ Donation Month, designates the month of April of each year as Organ Donation Awareness/Donate Life Month in North Carolina. **Effective: April 9, 2013.**

SENATE BILL 20, Good Samaritan Law/Naloxone Access. This legislation provides limited immunity from prosecution for: (1) certain drug-related offenses committed by an individual who seeks medical assistance for a person experiencing a drug-related overdose and (2) certain drug-related offenses committed by an individual experiencing a drug-related overdose and in need of medical assistance, if the evidence for prosecution was obtained as a result of the person seeking medical assistance for the overdose. The legislation would also allow a practitioner acting in good faith and exercising reasonable care to directly or by standing order prescribe, dispense, or distribute an opioid antagonist (Naloxone) to: (i) a person at risk of experiencing an opiate-related overdose, or (ii) a family member, friend, or other person in a position to assist a person at risk of experiencing an opiate-related overdose. Immunity is provided in the new law from civil or criminal liability. Persons who receive an opioid antagonist pursuant to the provisions summarized above may administer that opioid antagonist to another person who is experiencing a drug-related overdose if: (i) the person has a good faith belief that the other person is experiencing a drug-related overdose; and (ii) the person exercises reasonable care in administering the drug to the other person. Under these circumstances the person would be immune from civil or criminal liability. Finally, the legislation would provide limited immunity for people under the age of 21 from the prosecution of possession or consumption of alcoholic beverages when the person was seeking medical assistance for another individual and that act was the sole reason law enforcement became aware of the violation (limited to situations in which the person acted in good faith, used his or her own name when contacting authorities, and remained with the individual needing medical assistance). **Effective: April 9, 2013.**

SENATE BILL 33, Use of Criminal History Records by Licensing Boards. This legislation prohibits an occupational licensing board from automatically denying licensure on the basis of an applicant's criminal history, unless the law governing a particular board provides otherwise. If the board is authorized to deny a license to an applicant on the basis of conviction of any crime or for the commission of a crime involving fraud or moral turpitude, and the applicant's verified criminal history record reveals one or more convictions of a crime, the board may deny the license if it finds that denial is warranted after considering the following factors:

- the level and seriousness of the crime;
- the date of the crime;
- the age of the person at the time of the crime;
- the circumstances surrounding the commission of the crime, if known;

- the nexus between the criminal conduct and the prospective duties of the applicant as a licensee;
- the prison, jail, probation, parole, rehabilitation, and employment records of the applicant since the date the crime was committed;
- the subsequent commission of a crime by the applicant; and
- affidavits or other written documents, including character references.

The board may deny licensure to an applicant who refuses to consent to any required criminal history record check or use of fingerprints or other identifying information. These provisions do not apply to the North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission both of whom regulate law enforcement officers. **Effective: July 1, 2013, and applies to applications for licensure submitted on or after that date.**

SENATE BILL 83, Encourage Volunteer Care in Free Clinics, removes the current language that defines a "free clinic" as a nonprofit organization that maintains liability insurance covering the acts and omissions of the free clinic. The legislation provides that, for a volunteer medical or health care provider who provides services at a free clinic to receive limited liability protection, the free clinic must provide a copy of the following notice to the patient, or person authorized to give consent for treatment, prior to the delivery of health care services:

NOTICE

Under North Carolina law, a volunteer medical or health care provider shall not be liable for damages for injuries or death alleged to have occurred by reason of an act or omission in the medical or health care provider's voluntary provision of health care services unless it is established that the injuries or death were caused by gross negligence, wanton conduct, or intentional wrongdoing on the part of the volunteer medical or health care provider.

The legislation also provides that a nonprofit community health referral service that refers low-income patients to *medical or health care providers* for free services is not liable for the acts or omissions of the *medical or health care providers* in rendering service to that patient if it maintains liability insurance covering the acts and omissions of the nonprofit health referral service and any liability pursuant to these provisions. **Effective: October 1, 2013, and applies to claims that arise on or after that date.**

SENATE BILL 98, Require Pulse Oximetry Newborn Screening, as recommended by the North Carolina Child Fatality Task Force, expands the Newborn Screening Program to include a pulse oximetry screening for each newborn to detect congenital heart defects. The legislation directs the Commission for Public Health to adopt rules for pulse oximetry screening that address at least all of the following: (1) follow-up protocols to ensure early treatment for newborn infants diagnosed with a congenital heart defect, including by means of telemedicine; and (2) a system for tracking both the process and outcomes of newborn screening utilizing pulse oximetry, with linkage to the Birth Defects Monitoring Program. **Effective: May 8, 2013.**

SENATE BILL 117, Lily's Law. This legislation amends the statute regarding murder in the first and second degree, by providing that murder where a child is born alive but dies as a result of injuries inflicted prior to the child being born, shall constitute murder for the purposes of that statute. The degree of murder (first or second) will be determined by the existing standards. The legislation clarifies that nothing in the legislation "shall be construed to apply to an unintentional

act or omission committed by the child's birth mother during the pregnancy that culminated in the birth of the child". Other related statutes (including statutes adopted pursuant to the "Unborn Victims of Violence Act/Ethan's Law" of 2011) and common law will remain applicable to offenses not described in the legislation. **Effective: December 1, 2013 and applies to offenses committed on or after that date.**

SENATE BILL 132, Health Curriculum/Preterm Birth. This legislation amends the existing requirements that each school administration provide a reproductive health and safety education program commencing in the seventh grade, by requiring that the program also teach "about the preventable **risks** for preterm birth in subsequent pregnancies, including induced abortion, smoking, alcohol consumption, the use of illegal drugs, and inadequate prenatal care." The legislation also extends this requirement to charter schools for students in 7th through 12th grades, and requires the Department of Public Instruction (DPI) to make the information available to private church schools, schools of religious charter, qualified non-public schools, and home schools. NOTE: The original version of this legislation required schools to teach about "the preventable **causes** of preterm birth and only listed induced abortion." Amendments were made to the bill throughout the process to include smoking, alcohol consumption, the use of illegal drugs, and inadequate prenatal care as well as change the term **causes** to **risks**. There was considerable debate about whether existing empirical evidence objectively demonstrates a causal link between these risk factors and preterm birth. The North Carolina Child Fatality Task Force recommended this legislation. **Effective: July 9, 2013.**

SENATE BILL 137, Prohibit Co-pay Waiver/Medicaid Providers. This legislation prohibits providers from waiving Medicaid and Health Choice co-payments when done with the intent to induce recipients to purchase, lease, or order items or services from the provider. Providers will be deemed in violation of this law regardless of the monetary amount waived. Providers are, however, permitted to waive co-pays in the following circumstances:

- the waiver is authorized under the Medical Assistance Program or the North Carolina Health Insurance Program for Children;
- the provider determines on an individual basis that collection of co-payment would create a financial hardship for the recipient, providing this is not a regular business practice;
- the provider has made reasonable effort but has failed to collect the co-payment from the recipient; and
- the provider is a health care facility regulated, owned or operated by the State of North Carolina.

Effective: October 1, 2013.

SENATE BILL 156, Clarify LEC Procedure/Technical Changes, clarifies the Legislative Ethics Committee's investigative procedures, and makes other technical changes as recommended by the Legislative Ethics Committee. These changes include:

- authorizing the Committee to begin an investigation after receiving a signed and sworn allegation of unethical conduct by a legislator (the previous law only allowed the Committee itself or the Ethics Commission to initiate a complaint);
- requiring the Committee to immediately provide written notice to the legislator who is the subject of the allegation or inquiry upon the Committee's receipt of a complaint or the referral of a complaint, or upon the initiation of an inquiry by the Committee;
- requiring the Committee to begin its investigation after receiving a complaint or a referral of a complaint within 10 business days while the General Assembly is in Regular Session and within 20 business days any other time;

- requiring the Committee to make recommendations to the chamber in which the legislator who is the subject of the complaint is a member without further investigation if the Committee determines it does not have jurisdiction over the alleged conduct, but if true, the alleged conduct may be unethical;
- allowing the Committee to extend the time for the preliminary investigation if it determines that it does not have sufficient information to proceed; and
- allowing the Committee to issue a private admonishment without holding a hearing subject to certain requirements.

Effective: June 19, 2013.

SENATE BILL 174, Disapprove Industrial Commission Rules. This legislation disapproves certain rules adopted by the North Carolina Industrial Commission on September 20, 2012, and approved by the Rules Review Commission on October 18, 2012. These Rules covered a wide variety of issues dealing with Worker's Compensation cases, including Official Forms, Electronic Payment of Costs, Reinstatement of Compensation, Reinstatement of Compensation, Employer's Obligations upon Notice, Responding to a Party's Request for Hearing, Discovery, Statement of Incident Leading to Claim, Medical Motions and Emergency Medical Motions, Depositions and Additional Hearings, Expert Witnesses and Fees, Review by Full Commission, Remand from the Appellate Courts, Definitions, Vocational Rehabilitation Services Return to Work, Document and Record Fees, Hearing Costs or Fees, Fees Set by the Commission, and Foreign Language Interpreters. Additional rules as adopted by the North Carolina Industrial Commission on September 20, 2012, and approved by the Rules Review Commission on November 15, 2012, that cover the following are also disapproved: Suspension of Rules, Interaction with Physicians, Compensation of the Mediator, and Waiver of Rules.

The legislation removes the provision that requires a matter to be scheduled for a formal hearing on a preemptive basis if the employer or insurer contests the employee's request for reinstatement, and, instead, requires the form provided by the Commission for a request for reinstatement of compensation to contain the reasons for the proposed reinstatement (supported by available documentation), and inform the employer of its right to contest the reinstatement of compensation by filing an objection in writing within 14 days of the employee's notice. If the employer or insurer contests the employee's request for reinstatement, the Commission must conduct an informal hearing by telephone with the parties or their counsel, or in person in Raleigh or other location if either party objects to conducting the hearing by telephone. The parties will have an opportunity to state their position and to submit documentary evidence at the informal hearing; however, the employee may waive the right to an informal hearing and proceed to the formal hearing. The Commission's decision in the informal hearing is not binding in the subsequent hearings. If the application for Reinstatement of Payment of Disability Compensation is approved or not contested, then compensation will be reinstated immediately and continue until further order of the Commission. The employer or employee may request a formal hearing on the Commission's decision, which will be a hearing de novo on the employee's application for reinstatement of compensation and may be scheduled by the Commission on a preemptive basis.

The legislation also: (1) allows a party to file an expedited, emergency, or other medical motion with the Office of the Chief Deputy Commissioner, and provide the nonmoving party the right to contest the motion; (2) prohibits a party from issuing a subpoena duces tecum less than 30 days prior to the hearing date except with prior approval of the Commission; and (3) directs the Industrial Commission to study the financial and economic impact and operational burdens on all parties of mandating that costs and fees be submitted electronically and report its findings and

recommendations to the 2014 Regular Session of the 2013 General Assembly. **Effective: July 18, 2013.**

SENATE BILL 208, Effective Operation of 1915(b)/(c) Waiver. This legislation seeks to ensure the effective statewide operation of the 1915 (b)/(c) waiver, and includes the following provisions:

- amends the definition of a “local management entity/managed care organization” or “LME/MCO” as a local management entity that is under contract with the Department of Health and Human Services to operate the combined Medicaid Waiver program authorized under Section 1915(b) and Section 1915(c) of the Social Security Act;
- requires the Secretary to certify in writing every six months as to whether all LME/MCOs are in compliance with the following requirements that the LME/MCO: (1) has made adequate provision (as defined) against the risk of insolvency with respect to capitation payments for Medicaid enrollees; (2) is making timely provider payments; and (3) is exchanging billing, payment, and transaction information with the Department in a manner that complies with all applicable federal standards;
- requires the Secretary, if he or she determines that an LME/MCO is not in compliance, to provide a written notice of noncompliance and to assign and effectuate an orderly transfer of management responsibilities from the noncompliant LME/MCO to the compliant LME/MCO, including the responsibility of paying providers for covered services, in order to ensure the uninterrupted provision of medically necessary services to Medicaid recipients;
- specifies the actions the Secretary must take in overseeing the transfer of all management responsibilities, operations, and contracts of the noncompliant LME/MCO to the compliant LME/MCO;
- directs the Secretary to provide a copy of each completed certification of compliance to the Senate Appropriations Committee on Health and Human Services, the House Appropriations Subcommittee on Health and Human Services, the Legislative Oversight Committee on Health and Human Services, and the Fiscal Research Division;
- directs the Secretary to develop and use a standard contract for all LME/MCOs for operation of the 1915(b)/(c) Medicaid Waiver that requires compliance by each LME/MCO with all provisions of the contract to operate the waiver and with all applicable provisions of State and federal law;
- allows a county to disengage from an LME/MCO and realign with another multicounty area authority operating under the 1915(b)/(c) Medicaid Waiver with the approval of the Secretary, and requires the Secretary to adopt rules to establish a process for county disengagement that ensures certain minimum requirements, including that the provision of services is not disrupted by the disengagement;
- requires the establishment of a county commissioner advisory board for each catchment area; and
- provides that the right to a contested case hearing under the Administrative Procedures Act does not apply to the Department of Health and Human Services for actions taken under G.S. 122C-124.2 (Actions by the Secretary to ensure effective management of behavioral health services under the 1915(b)/(c) Medicaid Waiver).

Effective: The majority of the provisions are effective June 12, 2013.

SENATE BILL 222, Revise Controlled Substances Reporting. This legislation revises the North Carolina Controlled Substances Reporting System Act, as recommended by the Child Fatality Task Force. The **North Carolina College of Emergency Physicians** has been active in the Chronic Pain Initiative, which seeks ways to decrease deaths due to prescription drugs. As part

of our participation we have strongly supported allowing non-physicians to have access to the CSRS system so that they can coordinate providing the information to the treating physician and provide information in a more expedited manner. This legislation was worked on by a wide variety of stakeholders and most of the final provisions of the law were agreed to by all the parties. In addition, other legislation filed this session would have **REQUIRED** physicians to check the CSRS system prior to prescribing any narcotics or opioids and the **North Carolina College of Emergency Physicians** was strongly opposed to those efforts which failed. As enacted, this legislation:

- clarifies that a person licensed to practice veterinary medicine is not a dispenser for purposes of the Controlled Substances Reporting System Act;
- decreases the time within which a dispenser must report the required information from seven days to no later than the close of business three days after the delivery date. Dispensers are encouraged to report the information no later than 24 hours after the prescription was delivered. (the original version of the legislation would have required reporting no later than 24 hours after the prescription is dispensed);
- adds “method of payment for the prescription” to the list of information that must be reported (the original version also would have also required “specialty of practitioner, if known” and “documentation of photographic identification presented by the person seeking dispensation of the prescription, when such documentation is required”);
- provides that a dispenser is not required to report instances in which a controlled substance is provided directly to the ultimate user and the quantity provided does not exceed a 48-hour supply;
- allows DHHS to review the prescription information data in the controlled substances reporting system in order to: (1) notify practitioners that a patient may have obtained prescriptions for controlled substances in a manner that may represent abuse, diversion of controlled substances, or an increased risk of harm to the patient and (2) report information regarding the prescribing practices of a practitioner to the agency responsible for licensing, registering, or certifying the practitioner;
- requires that in order to receive a report regarding the prescribing practices of a practitioner, an agency responsible for licensing, registering, or certifying a practitioner with prescriptive or dispensing authority must adopt rules setting the criteria by which the Department may report the information to the agency. The law clarifies that the criteria for reporting established by such a rule does not establish the standard of care for prescribing or dispensing, and cannot be a basis for disciplinary action by an agency.
- expands the list of persons to whom the Department of Health and Human Services (DHHS) may release data from the controlled substances reporting system to include:
 - a person delegated by someone authorized to prescribe or dispense controlled substances for the purpose of providing medical or pharmaceutical care for their patients, as long as the designee is working under his or her direction and supervision, and **provided DHHS approves the delegation; (this provision was supported by NCCEP)**
 - a sheriff or a police chief or their designees who are assigned to investigate the diversion and illegal use of prescription medication or pharmaceutical products identified in Article 5 of GS Chapter 90 as schedule II through V controlled substances, and is engaged in a bona fide specific investigation related to the enforcement of laws governing illicit drugs **under a lawful court order**, and
 - SBI agents assigned to the Diversion & Environmental Crimes Unit who may then give this information to other SBI agents who are engaged in a bona fide specific investigation related to the enforcement of laws governing illicit drugs;

- directs the state Attorney General's Office to review any findings reported to that office by DHHS to determine if the findings should be reported to the SBI and the appropriate sheriff for investigation of possible violations of state or federal law regarding controlled substances;
- increases the civil penalty for intentionally, knowingly, or negligently releasing, obtaining, or attempting to obtain information from the system in violation of law from \$5,000 to \$10,000 per violation, and requiring the Commission to adopt rules establishing the factors to be considered in determining the amount of the penalty to be assessed;
- provides that an entity (current law is *health care provider or entity*) permitted to access the System who, acting in good faith reports or transmits data required or allowed by the legislation, is **immune from civil or criminal liability** that might otherwise be incurred or imposed as a result of making the report or transmitting the data; and
- requires the North Carolina Medical Board to make email addresses and fax numbers of physicians and physician assistants available to the Department for use in the System.

Effective: The first 4 listed provisions are effective January 1, 2014, and apply to prescriptions delivered on or after that date. The remaining provisions are effective June 19, 2013.

SENATE BILL 240, Develop Rules for Release of Path Materials, directs the Division of Health Service Regulation, Department of Health and Human Services, and the North Carolina Medical Board to develop rules governing requests for and release of pathological materials made to clinical laboratories within their jurisdictions. **Effective; May 8, 2013.**

SENATE BILL 252, Increase Penalty/Controlled Substance Crimes, increases the penalty for an intentional violation of the Controlled Substances Act from a Class I felony to a Class G felony when the violation is committed by an employee of a registrant or practitioner who is authorized to possess controlled substances or has access to controlled substances by virtue of his or her employment. **Effective: December 1, 2013, and applies to offenses committed on or after that date.**

SENATE BILL 285, DWI Cases/No ILAC Request, eliminates the requirement that would come into effect on July 1, 2013, that a laboratory providing chemical analyses must be accredited by an accrediting body that is a signatory to the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement. In addition, the legislation clarifies that the results of chemical analysis of blood or urine from all hospital laboratories in North Carolina that are approved by the Department of Health and Human Services pursuant to the Clinical Laboratory Improvement Amendments of 1988 (CLIA) program are admissible as evidence. **Effective: June 26, 2013.**

SENATE BILL 306, Capital Punishment/Amendments. This legislation was filed to address the numerous legal issues in North Carolina that have prevented death penalty convictions from being carried out by the State, which has created a de-facto moratorium. The legislation resolves those issues and allows the death penalty to be carried out. In addition, this legislation repeals the Racial Justice Act. The legislation makes the following amendments to the State's laws regarding capital punishment:

- provides that any assistance rendered with an execution under this Article by any licensed health care professional, including, but not limited to, physicians, nurses, and pharmacists, is not cause for disciplinary or corrective measures by a board, commission, or other authority created or governed by State law which oversees or regulates the practice of health care professionals, including, but not limited to, the North Carolina

Medical Board, the North Carolina Board of Nursing, and the North Carolina Board of Pharmacy;

- provides that the infliction of the punishment of death by administration of the required lethal substances or any assistance whatsoever does not constitute the practice of medicine or surgery, pharmacy, or nursing;
- directs the State Attorney General to provide written notification relating to post-conviction proceedings to the Secretary of the Department of Public Safety not more than 90 days from the occurrence of such events;
- requires the Secretary of the Department of Public Safety to immediately schedule a date for the execution of the original death sentence not less than 15 days or more than 120 days from the date of receiving written notification from the Attorney General;
- directs the Attorney General to submit a written report to the Joint Legislative Oversight Committee on Justice and Public Safety by April 1, 2014, and on October 1 of each year thereafter, on the status of all pending post-conviction capital cases;
- provides that the mode of executing a death sentence must be by administering an intravenous injection of a substance or substances in a lethal quantity sufficient to cause death and until the person is dead, and that procedure will be determined by the Secretary of the Department of Public Safety, in compliance with the federal and State constitutions (current law requires the administration of a lethal quantity of an ultrashort-acting barbiturate in combination with a chemical paralytic agent);
- provides that a licensed physician (currently, the surgeon or physician of the penitentiary) must be present at the execution; and
- directs the warden to report to the Joint Legislative Oversight Committee on Justice and Public Safety by April 1, 2014, and then on October 1 of each following year, on the status of the persons named and designated by the warden to execute death, including that these persons are properly trained and ready to serve as an execution team.

The legislation also repeals the North Carolina Racial Justice Act, which prohibits a person from being subject to or given a death sentence or executed pursuant to a judgment that was sought or obtained on the basis of race. The legislation provides that:

The intent and purpose of this section, and its sole effect, is to remove the use of statistics to prove purposeful discrimination in a specific case. Upon repeal of Article 101 of Chapter 15A of the General Statutes, a capital defendant retains all of the rights which the State and federal constitutions provide to ensure that the prosecutors who selected a jury and who sought a capital conviction did not do so on the basis of race, that the jury that hears his or her case is impartial, and that the trial was free from prejudicial error of any kind. These rights are protected through multiple avenues of appeal, including direct appeal to the North Carolina Supreme Court, and discretionary review to the United States Supreme Court; a post-conviction right to file a motion for appropriate relief at the trial court level where claims of racial discrimination may be heard; and again at the federal level through a petition of habeas corpus.

The legislation further states that capital defendants already had the right to raise the issue of whether a prosecutor sought the death penalty on the basis of race, whether the jury was selected on the basis of race, or any other matter which evidenced discrimination on the basis of race prior to the enactment of the Racial Justice Act. The Attorney General will assume primary responsibility on behalf of a district attorney, upon his or her request, for the litigation in superior court or an appellate court of any claims or issues resulting from a petition for relief that has

been or may be filed under the provisions of the Racial Justice Act or issues or matters relating to its repeal. The repeal is retroactive and applies to any motion for appropriate relief filed pursuant to the Act prior to the effective date of this act, and all motions filed prior to the effective date of this act are void. This section does not apply to a court order resentencing a petitioner to life imprisonment without parole prior to the effective date of this act if the order is affirmed upon appellate review and becomes a final Order. **Effective: June 19, 2013.**

SENATE BILL 321, Inmate Costs/Ct. Appt./Notaries. This legislation requires counties to reimburse providers and facilities providing requested or emergency medical care outside of the local confinement facility the lesser amount of either: (1) a rate of 70% of the provider's then-current prevailing charge; or (2) two times the then-current Medicaid rate for a given service. The county may audit a provider to determine the actual prevailing charge to ensure compliance, and may contract with a provider for services at rates that provide greater documentable cost avoidance for the county than the rates above or at rates that are less favorable to the county but that will ensure the continued access to care. The county must make reasonable efforts to equitably distribute prisoners among all hospitals or other appropriate health care facilities located within the same county based upon the licensed acute care bed capacity at each of the hospitals located within the same county. *Requested or emergency medical care* includes all medically necessary and appropriate care provided to an individual from the time that individual presents to the provider or facility in the custody of county law enforcement officers until the time that the individual is safely transferred back to the care of county law enforcement officers or medically discharged to another community setting, as appropriate. The legislation also allows a local jail's plan for providing medical care for prisoners to utilize Medicaid coverage for eligible prisoners.

The **North Carolina College of Emergency Physicians** worked with the sponsors of this bill and other stakeholders to use this legislation to try to put into law the case decisions that the Courts have made regarding when "custody" begins and when the county must pay for medical care, not only of inmates, but also of those they are holding, arresting or already arrested. We had several stakeholder meetings and modified the language many times to make sure we were only expanding counties liability based upon the case law. We thought we had a final agreement by the sponsor and most of the stakeholders and we were very pleased with the final product as approved by the House. However, the bill was sent to a conference committee to work out the differences in the House and Senate versions. The proposal that was offered to resolve the bill was to water down the language and many were concerned that this would actually be a step back from what the Courts had decided and would actually be a worse outcome. In the final version of the legislation, most of our language has been removed; however, the definition of "requested or emergency medical care" does provide a little relief. We are disappointed by this outcome; however, NCCEP will continue to work on this important issue for Emergency Medicine. **Effective: September 1, 2013.**

SENATE BILL 336, Collaboration Among State Diabetes Programs, directs the Division of Medical Assistance, the Diabetes Prevention and Control Branch of the Division of Public Health, and the State Health Plan Division within the Department of State Treasurer to each develop plans to reduce the incidence of diabetes, improve diabetes care, and control the complications associated with diabetes. Each entity's plans must be tailored to the population the entity serves and must establish measurable goals and objectives. These divisions will report to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division by December 1st of each even-numbered year. **Effective: June 26, 2013.**

SENATE BILL 353, Health and Safety Law Changes. This legislation as originally introduced dealt with motorcycle safety and retains that provision; however, the bill was amended to include a variety of abortion provisions from both the House and the Senate. A great deal of controversy surrounded the bill, not only because of the subject matter, but also because of the process used to enact the bill into law. The House had already approved some of these provision in separate bills, but the Senate failed to take up any abortion issues until late at night before the 4th of July holiday when the Senate recessed so that a committee could meet. Without any public notice, the committee used another bill (Sharia Law Bill) to include a package of abortion provisions and approved it without public comment in less than an hour. The Senate then quickly approved the bill along party lines. Many expressed criticism of the process, including the Governor and members of the House. The Governor, who had made a pledge during his campaign not to sign any further restrictions on abortion into law, criticized the bill and leaders from the Department of Health and Human Services provided practical problems and pointed out wording that was unclear during a hearing the House held to allow limited public comment on the bill.

In a surprising development, the House then called a committee meeting and did the same as the Senate and amended the motorcycle safety bill without any public notice. A few minor wording changes had been made to address the Governor's concerns, but the bill was for all purposes the same as the bill rolled out by the Senate. The House, after extended debate approved the legislation largely along party lines and then sent the bill back to the Senate for concurrence with the minor changes that the House made. The Senate held the bill until the next to last day of session (which caused a great deal of speculation about the fate of the bill and the Governor's position) and then approved it and sent it to the Governor. There was a great deal of advocacy on both sides of the issue to urge the Governor to act, but in the end the Governor signed the bill into law. The legislation changes the law as follows:

- expands the prohibition against requiring a health care provider who states an objection to abortion on moral, ethical, or religious grounds to participate in medical procedures, which result in an abortion, to also include any health provider (previously the prohibition was limited only to physicians and nurses licensed in North Carolina);
- clarifies that the refusal of a physician, nurse, or health care provider to provide an abortion is not a basis for damages or for any disciplinary or other recriminatory action against a physician, nurse, or health care provider;
- clarifies that a health care institution, hospital, or other health care provider is not required to perform an abortion or to provide abortion services (was, a hospital or a health care institution);
- prohibits a qualified health plan offered through an Insurance Exchange and operating within North Carolina from including coverage for abortion services, with an exception for abortions performed when the pregnancy is a result of rape or incest or the mother's life is endangered;
- prohibits cities or counties from providing abortion coverage greater than that provided by the State Health Plan for Teachers and State Employees (which does not cover abortion services). Applies to insurance contracts or policies issued, renewed, or amended on or after October 1, 2013;
- prohibits the performance of an abortion on a woman who knows, or has an objective reason to know, that a significant factor in seeking the abortion is related to the sex of the unborn child. Establishes that this section will not be construed as creating an affirmative duty for a physician to inquire if the sex of the unborn child is a significant factor in seeking the abortion. Civil remedies are provided against any person who has violated a provision of this Article and can be sought by: (i) the woman upon whom an abortion was performed or attempted; (ii) the spouse or guardian of the woman upon whom an abortion

was performed or attempted; or (iii) a parent of a woman upon whom an abortion was performed or attempted if the woman was a minor at the time of the abortion or the attempted abortion;

- allows a claim for injunctive relief to be sought by: (i) the woman upon whom an abortion was performed or attempted in violation of this Article; (ii) any person who is the spouse, guardian, or current or former licensed health care provider of the woman upon whom an abortion has been performed or attempted in violation of this Article; or (iii) a parent of the woman upon whom the abortion was performed or attempted if the woman was a minor at the time of the abortion or the attempt;
- requires the court to rule whether the anonymity of any woman upon whom an abortion has been performed or attempted must be preserved from public disclosure if the woman does not give her consent to the disclosure. Upon determining that the woman's anonymity should be preserved, the court must issue orders to the parties, witnesses, and counsel and direct the sealing of the record and exclusion of individuals from courtrooms or hearing rooms to the extent necessary to safeguard the woman's identity from public disclosure. Requires such orders to be accompanied by specific written findings explaining: (1) why the anonymity of the woman should be preserved from public disclosure; (2) why the order is essential to that end; (3) how the order is narrowly tailored to serve that interest; and (4) why no reasonable, less restrictive alternative exists. Prohibits construing this section to be used to conceal the identity of the plaintiff or of witnesses from the defendant;
- directs DHHS to make a list of resources available on their web site that a woman may contact for assistance upon receiving information from the physician performing an ultrasound that her unborn child may have a disability or serious abnormality;
- expands the information that a physician or qualified professional must provide orally (by telephone or in person) to a woman at least 24 hours before an abortion is performed, except in the case of a medical emergency;
- requires that the doctor performing the abortion will be physically present during the performance of the entire abortion procedure and that the doctor prescribing, dispensing or otherwise providing any drug or chemical for the purpose of inducing an abortion will be physically present in the room with the patient when the first drug or chemical is administered to the patient;
- authorizes (but does not require) DHHS to “apply any requirement for the licensure of ambulatory surgical centers to the standards applicable to clinics certified by the Department to be suitable facilities for the performance of abortions” (one of the prior versions of the bill required the standards to be the same);
- requires that the licensure rules to be created by DHHS “ensure that standards for clinics certified by the Department address the on-site recovery phase of patient care at the clinic, protect patient privacy, provide quality assurance, and ensure that patients with complications receive the necessary medical attention, while not unduly restricting access”;
- authorizes the Department to issue temporary rules “in addition to its permanent rulemaking authority, to enforce this subsection”;
- directs DHHS’s Division of Health Service Regulations to study “what resources the Division needs to adequately enforce regulations for clinics certified by the Department to be suitable facilities for the performance of abortions” and report its findings and recommendations to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division by April 1, 2014; and
- includes a severability provision that allows the law to survive even if a provision or some provisions are found to be unconstitutional.

The battle now will move to the courtroom where the original "Women's Right to Know Act" is being challenged in court. **Effective: Most of the provisions are effective October 1, 2013.**

SENATE BILL 399, Criminal Defendant May Waive Jury Trial. This legislation will amend the State constitution, if approved by voters in a statewide election held in November 2014, to allow a defendant accused of any criminal offense for which the State is not seeking a sentence of death in superior court to, knowingly and voluntarily, in writing or on the record in the court and with the consent of the trial judge, waive the right to trial by jury. If a defendant waives the right to trial by jury, the whole matter of law and fact will be heard and judgment given by the court. **Effective: Only upon approval by the voters of the proposed constitutional amendment. If the constitutional amendment is approved by the voters, this act becomes effective December 1, 2014, and applies to criminal cases arraigned in superior court on or after that date.**

SENATE BILL 402, Appropriations Act of 2013. The budget process this year was more protracted and more contentious than in either of the previous budgets authored by the Republican majority, and this budget reflects a more substantial shift in policy. This reflects their total control of state government – in 2011 and 2012, Republican leaders in the House needed a handful of Democratic votes to overcome then Gov. Bev Purdue's veto; however, with expanded majorities in both chambers and a supportive Republican Governor standing with them, legislative leaders were free to craft a budget that reflects their priorities for the state. Last session, the major priorities for Speaker Thom Tillis and Senate President Pro Tem Phil Berger (compensation for victims of the state's eugenics program, and an end to teacher tenure in public education, respectively) were both left out of the final budget. This was seen as a reflection of the deep tensions between the chambers, and between the leaders themselves. These tensions continued during this year's session, with disagreements over tax reform and others issues playing out in the public eye, and a continuing resolution necessary to continue funding of state government after the end of the fiscal year on June 30th. After weeks of gamesmanship on both sides, compromise was reached between the chambers on a final budget, which includes both \$10 million in funds for eugenics compensation and provisions that end teacher tenure, as well as a wide variety of other policy and funding shifts. Among the most notable:

- An overall increase in spending of 2.5%, and a total of \$20.6 billion in FY 2013-14 and \$20.9 billion in FY 2014-15.
- Allocates \$1 million for the administration of a Voter ID requirement, which was passed into law this session.
- The budget does NOT move the State Bureau of Investigation from the Attorney General's Department of Justice (DOJ) to the Department of Public Safety, as proposed by the Senate. The budget does move the State Crime Lab from the SBI to the DOJ, giving Attorney General Roy Cooper direct oversight of the lab.
- The Child Fatality Task Force, which was slated for elimination in the Senate budget, was not mentioned in the compromise version.
- \$10.2 million was provided for merit-based bonuses which would go to approximately 25% of teachers. Also an end to "career status" (tenure) for public school teachers, which would be replaced by contracts of varying lengths (1, 2 or 4 years).
- \$10 million for an "opportunity scholarship" (voucher) program for low-income students to attend private schools. This issue was very controversial and crossed party lines as many see this as a doorway to provide vouchers to all students for private schools.
- The budget includes provisions and funding for increased school safety, as proposed by a bipartisan group of legislators, as well as allowing for the creation of volunteer school

resource officer (SRO) positions. These volunteer SROs would be former law enforcement or military, and would be armed and empowered to arrest, a proposal that has drawn criticism from anti-gun advocates and some school-safety groups.

- The creation of a Medicaid Reform Advisory Group, tasked with creating a plan for “significant reforms” of the system. This reflects Governor McCrory’s ongoing effort to privatize the administration of Medicaid services, but would authorize the General Assembly to study the issue, not to implement it without further action.
- Reduces the reimbursement rate to hospitals for outpatient services from 80% to 70%, and establishes regional rates for payment of hospital inpatient services, aimed at eliminating disparities in how hospitals are paid for the same service.
- Establishes a 3% withhold on selective services effective January 1, 2014. Services subject to the withhold include inpatient hospital, physician, dental, optical services and supplies, podiatry, chiropractors, hearing aids, personal care services, nursing homes, adult care homes and drugs. DHHS is directed to work with providers to develop an incentive-based plan that would allow providers to be eligible for some share of the savings.
- **Does NOT include the provision that would have limited payments to emergency services provided in non-emergent situations to those provided in primary care settings.**

Effective: The majority of the provisions are effective July 1, 2013.

SENATE BILL 456, Designate Primary Stroke Centers, as recommended by the Justus-Warren Heart Disease and Stroke Prevention Task Force, prohibits a hospital from advertising or holding itself out to the public as a primary stroke center unless it has been certified as a primary stroke center by the Joint Commission or other nationally recognized accrediting body that requires conformance to best practices for stroke care in order to be identified as a primary stroke center. The Department of Health and Human Services (DHHS) will designate as a primary stroke center any licensed hospital that demonstrates to the Department that it is certified by the Joint Commission or other nationally recognized accrediting body that requires conformance to best practices for stroke care. A hospital that is certified by the Joint Commission or other nationally recognized accrediting body as a primary stroke center must report the certification to DHHS within 90 days of receiving that certification, and must inform the Department of any changes to its certification status within 30 days of the change. Each hospital designated as a primary stroke center must make efforts to coordinate the provision of appropriate acute stroke care with other hospitals licensed in this State through a formal written agreement, which addresses, at a minimum, (i) transportation of acute stroke patients to hospitals designated as primary stroke centers, and (ii) acceptance by hospitals designated as primary stroke centers of acute stroke patients initially treated at hospitals that are not capable of providing appropriate stroke care. DHHS will maintain within the Division of Health Service Regulation, Office of Emergency Services, a list of the hospitals designated as primary stroke centers, post the list on its website, and transmit the list to the medical director of each licensed emergency medical services provider in this State on June 1 of each year. The legislation specifically provides that the new law may not be construed to establish a standard of medical practice for stroke patients, or restrict the authority of a hospital to provide services authorized under its hospital license.

Effective: October 1, 2013.

SENATE BILL 473, Health Cost Transparency/Speaker and PPT Standing. This legislation was modified during the last few days of the legislative session with a controversial provision to allow the Speaker of the House of Representatives and the President Pro Tempore of the Senate, as agents of the State, to jointly have standing (authority) to intervene on behalf of the General

Assembly as a party in any judicial proceeding challenging a North Carolina statute or provision of the North Carolina Constitution. Previously only the Attorney General (AG) had the authority to defend the State and its Constitution and laws; however, there is clearly some tension between the Republican leadership and the Democrat AG; especially after the AG publicly criticized the Voter ID law (House Bill 589 summarized above) and requested that the Governor veto the legislation. **Effective: August 23, 2013.**

SENATE BILL 486, Pertussis Education and Awareness, requires hospitals to provide parents of newborns delivered at the hospital with free, medically accurate educational information about pertussis disease (whooping cough) and the availability of the tetanus-diphtheria and pertussis (Tdap) vaccine to protect against the disease. This information must be provided to parents by the hospital during the postpartum period and prior to the mother's discharge from the hospital. These provisions do not require a hospital to provide or pay for any vaccination against pertussis disease. **Effective: October 1, 2013.**

SENATE BILL 530, Prohibit E-Cigarette Sales to Minors, makes it a Class 2 misdemeanor to sell, distribute, or purchase on behalf of a person under 18 years of age any tobacco-derived products, vapor products, or cigarette wrapping papers. The legislation provides an exception for an employee to purchase or accept receipt of tobacco products or cigarette wrapping papers when required in the performance of the employee's duties. In addition, the legislation requires a person engaged in the distribution of tobacco products through the Internet or other remote sales methods to perform an age verification through an independent, third-party age verification service that compares information available from public records to the personal information entered by the individual during the ordering process to establish that the individual ordering the tobacco products is 18 years of age or older. **Effective: August 1, 2013, and applies to offenses committed on or after that date.**

SENATE BILL 553, LME/MCO Enrollee Grievances & Appeals, establishes separate grievance and appeal procedures for local management entity/managed care organization (LME/MCO) Medicaid enrollees. These provisions apply to every LME/MCO and to every applicant, enrollee, provider of emergency services, and network provider of an LME/MCO. The LME/MCO must resolve the grievance as expeditiously as the enrollee's health condition requires, but no later than 90 days after receipt of the grievance, and provide the enrollee and all other affected parties with written notice of the grievance disposition by mail within the 90-day period. The legislation also includes provisions for expedited appeals, contested case hearings on disputed managed care actions, and the right to seek judicial review. Upon receipt of an appeal request form or other clear request for a hearing by an enrollee, OAH will immediately notify the Mediation Network of North Carolina, which will contact the enrollee within five days to offer mediation in an attempt to resolve the dispute. If mediation is accepted, the mediation must be completed within 25 days of submission of the request for appeal, and upon completion of the mediation, the mediator must inform OAH and the LME/MCO within 24 hours of the resolution by facsimile or e-mail. If the parties have resolved matters in the mediation, OAH will dismiss the case. OAH cannot conduct a hearing of any contested case involving a dispute of a managed care action until it has received notice from the mediator assigned that either (i) the mediation was unsuccessful, (ii) the petitioner has rejected the offer of mediation, or (iii) the petitioner has failed to appear at a scheduled mediation.

In addition, the legislation modifies the allocation of State's share in Hospital Provider Assessment tax by requiring the \$43 million of the State's annual Medicaid payment to be allocated between the equity assessment and the UPL assessment. **Effective: The grievance and**

appeals provisions are effective when this act becomes law and apply to grievances and managed care actions filed on or after that date.

BILLS ELIGIBLE FOR CONSIDERATION IN THE 2014 “SHORT” SESSION

We have summarized legislation that was completed in 2013; however, there are many bills that are still pending and will be eligible during the short session which begins May 14, 2014. By the rules of both the House and the Senate, only bills that were approved by one chamber and are currently waiting to be approved by the other chamber are eligible along with some limited categories (See the summary of HB 1023, The Adjournment Resolution, for a full list of the bill types which are eligible). We have listed below some of the relevant legislation that may be addressed in the short session.

A number of bills were introduced during the session to amend the North Carolina Constitution by adding referendums to the November 2014 ballot. Since Constitutional Amendments are not required to make the crossover deadline, these issues are all still eligible in the short session. Here are some of the bills filed:

- declaring that it is State public policy that the right of persons to work shall not be denied because of membership or non-membership in any labor union, organization, or association (also known as the Right to Work amendment);
- prohibiting the condemnation of private property except for a public use, and provide for the payment of just compensation with right of trial by jury in all condemnation cases;
- limiting the terms of the Speaker of the House of Representatives and the President Pro Tempore of the Senate to two biennium sessions of the General Assembly;
- restricting the limitations that may be placed on a person who holds a concealed carry permit;
- limiting increases in the General Fund budget, reforming the budget process, establishing an Emergency Reserve Trust Fund, and amending the North Carolina Constitution to establish a General Fund expenditure limit (also known as the Taxpayer Bill of Rights/TABOR amendment);
- providing that all State and local government public records are open to inspection and copying, and all State and local government meetings are open to the public (also known as the Sunshine Amendment);
- allowing Justices of the Supreme Court, Judges of the Court of Appeals, and regular Judges of the Superior Court to be subject to an election by qualified voters as to whether they will be retained to serve the succeeding eight-year term of that office;
- providing that, beginning with the general election in 2020 and every four years thereafter, each candidate for the office of Governor must form a joint candidacy with a candidate for Lieutenant Governor so that each voter will cast a single vote for Governor and Lieutenant Governor (also known as the Team Ticket amendment);
- replacing the present practice of selecting justices and judges of the appellate division and judges of the superior court generally by gubernatorial appointment, followed by elections;
- establishing an Independent Redistricting Commission to handle redistricting after the 2020 census and thereafter;
- providing that when a local government condemnor is not an elected board, a majority of the elected boards appointing it must approve the filing of the condemnation action; and
- authorizing the Governor to appoint the State Superintendent of Public Instruction and remove the Superintendent from the list of elected officials.

HOUSE BILL 18, Youth Skin Cancer Prevention Act, would raise the minimum age for legal use of tanning equipment without a written prescription from a medical physician, physician assistant, or nurse practitioner from 13 to 18 years of age. **Approved by the House and currently in the Senate Rules Committee.**

HOUSE BILL 109, Motorcycle Helmet Law/Study. The original provisions of this bill would have repealed the North Carolina helmet law. **The North Carolina College of Emergency Physicians opposed this bill as originally filed, and Dr. David Kammer appeared to testify to the House Judiciary Subcommittee B on behalf of NCCEP and made a strong case that the proposed repeal should be defeated.** After Dr. Kammer's testimony, the bill did not have the support to be approved in the committee and the bill was modified to a study that would direct the Joint Legislative Transportation Oversight Committee to review the laws of this State and other states on the use of motorcycle helmets, and consider whether our State's motor vehicle laws should be amended to provide exceptions to the requirement that all operators and passengers on motorcycles or mopeds wear a safety helmet. The study would include current requirements for mandatory helmet use; studies of the effectiveness of motorcycle helmets and motorcycle helmet laws; the effect of motorcycle helmet laws, or the repeal of those laws, on medical costs and insurance premiums; injury prevention, including safety training and driver education; penalties for noncompliance; and fiscal implications for State and local governments. **The bill as amended was approved by the House Judiciary Subcommittee B and the full House, and is currently in the Senate Rules Committee.**

HOUSE BILL 177, Amend Certificate of Need Laws. The original provisions of this bill (which would have exempted diagnostic centers from certificate of need review, amended Certificate of Need laws pertaining to single-specialty ambulatory surgery operating rooms and allow them to operate without a CON as long as they follow a variety of other regulations, among other provisions) were removed in the House Health and Human Services Committee and were replaced with provisions that would authorize the Legislative Research Commission to study the State's health care delivery system and certificate of need law. **Approved by the House and currently in the Senate Rules Committee. (NOTE: Several bills dealing with CON were introduced; this is the only bill that remains eligible for consideration during the 2014 session).**

HOUSE BILL 181, Physician Supervision Required/Nurse Anesthetist, would clarify that the provision of anesthesia services by a nurse, including, but not limited to, a nurse anesthetist or advanced practice registered nurse, does not constitute the practice of medicine or surgery, if the anesthesia services are provided under the supervision of a licensed physician or a licensed dentist who is qualified to provide anesthesia services. The bill would also clarify the Nursing Practice Act to restrict a nurse to provide anesthesia services only under the supervision of a licensed physician or dentist. **Approved by the House and currently in the Senate Rules Committee.**

HOUSE BILL 498, Autism Health Insurance Coverage, would require all health benefit plans, including the State Health Plan, to provide coverage for the treatment of Autism spectrum disorders. **Approved by the House and currently in the Senate Insurance Committee.**

BILLS NO LONGER ELIGIBLE FOR CONSIDERATION*

*While these bills did not meet the crossover deadline and are technically not eligible to be heard during the short session, there are a number of means available to legislators to revive bills. The most common of these is to amend a bill that did meet crossover and is therefore eligible, by either inserting the desired provisions or simply replacing the content of the “vehicle” bill with the desired provisions. Generally speaking, such action is only taken when the provisions of the “new” bill have been preapproved by the relevant committee chair and/or the chamber’s leadership, and as such this is typically an option reserved for members of the majority. Below are some bills that did not meet the crossover deadline so should not be eligible for consideration during the 2014 short session.

HOUSE BILL 34, Clarify Indecent Exposure Law, would have clarified the offense of indecent exposure by defining the term "private parts" as “external organs of sex and of excretion, including the nipple, or any portion of the areola, of the human female breast.” This bill became a statewide story (topless protests were held in Asheville) and was an embarrassment to the House leadership, who announced that the bill would not move forward.

HOUSE BILL 59/SENATE BILL 194, Eliminate Safety Inspections/Emission Inspection Requirement. The bill would have repealed the requirement that motor vehicles registered in this state have an annual safety inspection. In addition, the bill would establish emissions inspection fee levels. This legislation has been filed the last few sessions without success, and was not granted a committee hearing in either chamber this session.

HOUSE BILL 100/SENATE BILL 538, Healthy Families and Workplaces/Paid Sick Days, provided paid sick days for employees who miss work for various family obligations or domestic violence issues. The bill did not receive a committee hearing in either chamber.

HOUSE BILL 154/SENATE BILL 106, Home Birth Freedom Act, would have provided for the licensure and regulation of certified professional midwives (CPMs).

HOUSE BILL 204/SENATE BILL 499, Update/Modernize/Midwifery Practice Act, would have removed the current requirement that Certified Nurse Midwives (who are currently licensed to practice midwifery by the state) practice under the supervision of a physician.

HOUSE BILL 298/SENATE BILL 365, Affordable and Reliable Energy Act, would have eliminated the Renewable Energy and Energy Efficiency Portfolio Standards (REPS). The House version of the bill was voted down in Committee with bipartisan opposition, which was notable due to the rarity of bills being voted down (usually a bill is only brought up for a vote, in committee or on the chamber floor, if the sponsors knows the votes are there to pass it). House sponsors attempted to revive the bill despite the vote; however, those efforts were also unsuccessful.

HOUSE JOINT RESOLUTION 494, Rowan County Defense of Religion Act of 2013, would support the establishment of an official religion in North Carolina, and ignore certain federal court rulings. This bill created a firestorm of controversy and became an embarrassment to the House leadership who announced that the bill would not move forward during the session.

HOUSE BILL 518, Second Amendment Protection Act, would have provided that a personal firearm, firearm accessory, or ammunition that is manufactured commercially or privately in North Carolina and that remains exclusively within the borders of North Carolina is not subject to federal law, taxation, or regulation, including registration.

HOUSE BILL 606, Nonpartisan Redistricting Process, would have established a nonpartisan redistricting process in North Carolina, starting with the 2021 redistricting.

HOUSE BILL 640, Reporting of Gifts, would have repealed the ban on gifts given by lobbyists and lobbyist principals to legislators, legislative employees, and public servants, and replaced with a duty to report such gifts. To the relief of most lobbyists, the bill was not granted any indulgence by House leadership.

HOUSE BILL 693/SENATE BILL 675, Eliminate Exceptions/Medical Treatment/Minors, while not identical, were substantively similar. They would have prohibited a physician licensed to practice medicine in North Carolina from providing medical health services for an unemancipated minor for the prevention, diagnosis, and treatment of: (1) venereal disease and other reportable diseases; (2) abuse of controlled substances or alcohol; (3) mental illness or emotional disturbance; or (4) pregnancy without first obtaining the written consent of the minor and the written consent of a parent with custody of the minor or another legal guardian.

HOUSE BILL 995/SENATE BILL 349, Naturopathic Doctors Licensing Act, would have enacted the North Carolina Naturopathic Doctors Licensure Act, which would require a license to practice as a naturopathic doctor on or after January 1, 2014.

SENATE BILL 107, Decriminalize Direct Entry Midwifery, would have allowed certified professional midwives (who do not meet the qualifications for licensure as a midwife in North Carolina) to provide certain midwifery services without criminal penalty.

SENATE BILL 308, Amend Woman's Right to Know Act, would have required a physician performing an abortion, except in a medical emergency, to (1) be physically present during the performance of the entire abortion procedure, and on the premises immediately available to the patient while the patient is recovering from the procedure and until the patient leaves the premises; and (2) have admitting privileges to a hospital located within 30 miles of the place where the abortion is performed. While a provision requiring a physician to be present for the entire abortion procedure in cases of surgical abortion, and for the initial dose in cases of medicinal abortions, was included in HB 353, the scope of that provision was narrower than that included in SB 308. The requirement that a physician performing an abortion have admitting privileges to a hospital located within 30 miles of the place where the abortion is performed was not included in HB 353 or any other legislation that remains eligible.

SENATE BILL 555, Nursing Board/Regulate Nurse Practitioners/Fees, would have made various amendments to the Nursing Practice Act to authorize the Board of Nursing to regulate nurse practitioners (This would remove the NC Medical Board from its oversight function of nurses).

- Colleen Kochanek
NCCEP Legislative Counsel
P.O. Box 12946
Raleigh, NC 27605
919.747.9988
colleen@kochaneklawgroup.com
www.kochaneklawgroup.comⁱ

ⁱ THIS LEGISLATIVE REPORT IS A PUBLICATION OF KOCHANEK LAW GROUP AND IS A MEMBER BENEFIT OF NCCEP. ANY USE OR REPRODUCTION OF THIS REPORT IS LIMITED TO NCCEP AND ITS MEMBERS.

	<i>HB 998, 3rd Edition (House)</i>	<i>H998, 6th Edition (Senate)</i>	<i>Proposed Conference Committee Substitute</i>
INDIVIDUAL INCOME TAX CHANGE			
Effective Date			Taxable years beginning on or after January 1, 2014
Rates <i>6%, 7%, 7.75%</i>	Flat rate of 5.9%, 2014	Flat Rate of 5.75%, 2014	2014 – 5.8% 2015 and thereafter – 5.75%
Personal exemption <i>\$2,500 up to \$100,000 (MFJ), then \$2,000</i>	Eliminate Same in all three versions		
Standard deduction <i>Taxpayer is allowed the standard deduction amount or the itemized deduction amount \$6,000 (MFJ); \$4,400 (H/H); \$3,000 (Single, MFS)</i>	\$12,000 (MFJ) \$ 9,600 (H/H) \$ 6,000 (MFS/Single)	\$15,000 (MFJ) \$12,000 (H/H) \$ 7,500 (MFS/Single)	\$15,000 (MFJ) \$12,000 (H/H) \$ 7,500 (MFS/Single)
Itemized deductions <i>Taxpayer is allowed the itemized deduction amount from the federal return</i>	Limit itemized deductions to: <ul style="list-style-type: none"> • Unlimited charitable contributions (same as claimed on federal return) • Mtg. interest + property taxes paid on real estate (not to exceed \$25,000) 	Limit itemized deductions to: <ul style="list-style-type: none"> • Unlimited charitable contributions (same as claimed on federal return) • Mtg. interest + property taxes paid on real estate (not to exceed \$15,000) 	Limit itemized deductions to: <ul style="list-style-type: none"> • Unlimited charitable contributions (same as claimed on federal return) • Mtg. interest + property taxes paid on real estate (not to exceed \$20,000)
Deduction: Retirement income <i>(\$4,000 government; \$2,000 private)</i>	No change	Eliminate	Eliminate
Deduction: Severance wages <i>UI benefits taxable</i>	Eliminate Same in all three versions		

	<i>HB 998, 3rd Edition (House)</i>	<i>H998, 6th Edition (Senate)</i>	<i>Proposed Conference Committee Substitute</i>
Deduction: \$50,000 business income	Eliminate, 2013	Eliminate, 2014	Eliminate, 2014
Child credit \$100 for AGI up to \$100,000 (MFJ)	AGI ≤ \$100K = \$250 (MFJ) AGI > \$100K = \$100 (MFJ)	No change	AGI ≤ \$40,000 = \$125 (MFJ) \$40,000 > AGI < \$100,000 = \$100 (AGI)
Credits scheduled to sunset 2014	No change; credits will sunset in 2014 as scheduled Same in all three versions <i>Premiums paid on long-term care insurance, earned income refundable tax credit, adoption expenses</i>		
Credits with no sunset	Retain all credits except the non-itemizer charitable contribution credit	Eliminate all credits except child credit	Eliminate all but the child credit <i>Credits for child care, permanent and total disability, property taxes paid on farm machinery, education expenses, non-itemizer charitable contributions</i>
CORPORATE INCOME TAX CHANGES			
Effective Date			Taxable years beginning on or after January 1, 2014
Rate 6.9%	2014 – 6.5% 2015 – 6.35% 2016 – 6.2% 2017 – 5.6% Thereafter – 5.4%	2014 – 6.4% 2015 – 5% 2016 – 4% 2017 – 2% 2018 – Eliminate	2014 – 6% 2015 – 5% 2016 and 2017 – trigger tax rate, possible reduction in 2016 to 4% and possible reduction in 2017 to 3% if target reached both years; if target reached one year, rate would be 4%; if target not reached each year, rate would remain at 5%
Credit – low- income housing Scheduled to sunset 2015	Limit to tier 1 and 2 Remove sunset	Limit to tier 1 and 2 Phase it down 25% a year until it is eliminated in 2018	No change Revenue Laws Study Committee

	<i>HB 998, 3rd Edition (House)</i>	<i>H998, 6th Edition (Senate)</i>	<i>Proposed Conference Committee Substitute</i>
CIT & PIT credits without a sunset	No change	Eliminate, 2014	Eliminate <i>Credits for construction of dwelling units for handicapped, certain real property donations, conservation tillage equipment, gleaned crop, construction of poultry composting facility</i>
Remaining CIT & PIT credits with sunsets	No change Allow to sunset as scheduled	No change Allow to sunset as scheduled	Extend R&D credit for 2 years (2016) Allow all others to sunset as scheduled <ul style="list-style-type: none"> • <i>2014 – Credits for NC State Ports Authority charges, recycling oyster shells, constructing renewable fuel facilities, biodiesel producers, WOTC, interactive digital media, Article 3</i> • <i>2015 – Credits for film production, low-income housing, historic rehabilitation, mill rehabilitation</i> • <i>2016 – Investing in renewable energy, donating money to a nonprofit or governmental entity to invest in renewable energy</i> • <i>2018 – Manufacturing cigarettes for exportation</i> • <i>2038 – Intermodal RR facilities</i>
CIT credits without a sunset	No change	CIT eliminated in 2018	Eliminate 2 credits: <i>Certain telephone subscriber fees and savings and loan supervisory fee</i> No change to credit for investing in major recycling facility

	<i>HB 998, 3rd Edition (House)</i>	<i>H998, 6th Edition (Senate)</i>	<i>Proposed Conference Committee Substitute</i>
BUSINESS PRIVILEGE TAX (NEW)			
New in Senate Version	N/A	Impose flat tax on business entities in lieu of franchise tax	Not included
FRANCHISE TAX CHANGES			
Rate \$1.50 per \$1000	Lowers rate to \$1.35 per \$1,000, effective 2015	Reduce rate over three years to \$0.75	No change to current law Revenue Laws Study Committee
Gross receipts franchise tax on electricity	Eliminate, include it in the sales tax base July 1, 2014 Same in all three versions		
Annual report fee	No change	Eliminate, 2015	No change; do not eliminate
PRIVILEGE TAX CHANGES			
Amusements, movies	Eliminate, include in the sales tax base Same in all three versions		
SALES TAX CHANGES			
State Rate = 4.75%	No change Same in all three plans		
Local Rate = 2% Optional ¼ cent	No change Same in all three versions		
Tax rate: manufactured home 2%, \$300 maximum	No change	State general rate; not in local base July 1, 2014	State general rate; not in local base January 1, 2014
Tax rate: modular homes 2.5%	No change	State general rate; not in local base July 1, 2014	State general rate; not in local base January 1, 2014
Tax rate: Electricity <ul style="list-style-type: none"> • 3% • Plus 3% GR franchise tax 	Repeal 3% franchise tax on electricity; require Utilities Commission to adjust rate accordingly Tax electricity at the combined general rate of 7% July 1, 2014 Retain current exemptions for farmers, eligible internet datacenter, and manufacturing Same in all three versions		

	<i>HB 998, 3rd Edition (House)</i>	<i>H998, 6th Edition (Senate)</i>	<i>Proposed Conference Committee Substitute</i>
Add – service contracts	Yes Same in all three versions (changed effective date from July 1, 2014) January 1, 2014 Exempt if item for which service contract provided is exempt (except motor vehicles); exempt items used to fulfill service contract		
Add – alteration, repair, maintenance, installation	Yes July 1, 2014 Exempt if to an item exempt from tax	No	No
Add - amusements from privilege gross receipts franchise tax	Yes Same in all three versions (changed effective date from October 1, 2013) January 1, 2014		
Add – attractions for which admission charged	Yes October 1, 2013	Yes July 1, 2014	Yes January 1, 2014
Amusement exemptions	14	5	5
Add – piped natural gas <i>Propane taxed at State and local sales tax rate</i>	Repeal excise tax on piped natural gas Tax piped natural gas at combined general rate of 7% July 1, 2014 Same in all three versions		
Exemptions Eliminated	Nutritional supplements sold by chiropractors; sales tax holiday for energy star products	Nutritional supplements sold by chiropractors; newspapers; penny vending machine sales; 50% of sales from vending machines; meals sold in higher educational institutions; certain bakery items; both sales tax holidays	January 1, 2014 – <i>nutritional supplements sold by chiropractors, meals sold in higher educational facilities, newspapers</i> July 1, 2014 – <i>certain bakery items, sales tax holidays for school items and energy star products</i>

	<i>HB 998, 3rd Edition (House)</i>	<i>H998, 6th Edition (Senate)</i>	<i>Proposed Conference Committee Substitute</i>
Farm Exemptions	No change	Annual gross income requirement of \$10,000 July 1, 2014	Annual gross income requirement of \$10,000 July 1, 2014
Refunds: Local governments	No change	Eliminate	No change
Refunds: Nonprofits	No change	Cap refunds: 2014-15 - \$10.5 million (State and local) 2015-16 - \$7 million (State and local) 2016-17 - \$5 (State and local) 2017-18 - \$2.85 (State and local)	Cap refund at \$45 million (State and local) Revenue Laws Study Committee
Refunds: Various	No change	Phased elimination over four years	No change Revenue Laws Study Committee
Refunds – existing sunset of 2014	No change	No change, except as follows: <ul style="list-style-type: none"> • Passenger air carrier moved to phased elimination of refund • Motorsports extended 6 months, until July 1, 2014 	No change, except as follows: <ul style="list-style-type: none"> • Two-year extension of passenger air carrier (2016) • Two-year extension of motorsports (2016) Revenue Laws Study Committee
EXCISE TAX CHANGES			
Excise tax on piped natural gas	Eliminate, include in the sales tax base July 1, 2014 Same in all three versions		
Excise tax on motor fuel <i>Tax rate rose from 37.5 cents/gallon on July 1, 2013, to 37.6 cents</i>	N/A	Cap for two years at 38.5 cents, beginning September 1, 2013 – until June 30, 2015	Cap for two years at 37.5 cents, beginning October 1, 2013 – until June 30, 2015

	<i>HB 998, 3rd Edition (House)</i>	<i>H998, 6th Edition (Senate)</i>	<i>Proposed Conference Committee Substitute</i>
LOCAL GOVERNMENT DISTRIBUTIONS			
CIT earmark for Public School Fund	Eliminate Same in all three versions (<i>No funds applied since 2008</i>)		
Gross receipts tax on electricity distributed to cities	Formula to preserve local distribution Re-calculate formula every 5 years, beginning 2020	Formula to preserve local distribution; Does not provide for re-calculation every 5 years	Formula to preserve local distribution Re-calculate formula every 5 years, beginning 2020
Excise tax on piped natural gas distributed to cities	Formula to preserve local distribution Same in all three versions		
Earmarking 20% of sales tax from modular homes to counties	No change	Eliminate	Eliminate
ESTATE TAX			
Tax Levy	Eliminate, 2013 Same in both Senate versions, and in HB 101		
TOBACCO DISCOUNTS			
2% discount to taxpayers of cigarettes and OTP	No change	Eliminate	No change
REVENUE LAWS STUDY (NEW)			
Revenue Law Study	<ul style="list-style-type: none"> • The 1%/\$80 privilege tax that applies to mill machinery and on other machinery and equipment purchased by certain industries and companies. • The feasibility of a preferential tax rate on diesel fuel sold to railroads, fuel sold to passenger air carriers, and fuel sold to motorsports. • The authority of cities and counties to impose a privilege tax on businesses and the various State privilege license taxes. • The impact of the elimination of the State and local sales and use tax refund on nonprofit entities and their 		

	<i>HB 998, 3rd Edition (House)</i>	<i>H998, 6th Edition (Senate)</i>	<i>Proposed Conference Committee Substitute</i>		
	ability to fulfill their stated mission. <ul style="list-style-type: none"> • The benefits of allowing corporations to deduct NOLs instead of NELs. • The simplification of the franchise tax base calculation and the elimination of the franchise tax. • The feasibility of expanding the sales tax base to additional services. • Application of corporate income tax rate trigger • Low-income housing tax credit 				
TOTAL PLAN					
	FY13-14	FY14-15	FY15-16	FY16-17	FY17-18
Total GF Revenues Forecast (\$ billions)	20.47	21.39	22.31	23.27	24.27
House Version 3rd Edition	20.46	21.03	21.92	22.80	23.69
Difference from Forecast (\$ millions) ¹	(4.7)	(353.4)	(383.2)	(461.1)	(570.9)
Senate Version 6th Edition	20.29	20.90	21.55	22.28	23.31
Difference from Forecast (\$ millions)	(174.1)	(492.8)	(759.6)	(988.8)	(955.5)
Proposed Conference Committee Substitute	20.38	20.95	21.66	22.64	23.62
Difference from Forecast (\$ millions)	(86.6)	(437.8)	(644.6)	(623.5)	(649.8)

¹ This item includes the estate tax repeal in HB 101.