



SENATE BILL 704: COVID-19 Recovery Act.

2019-2020 General Assembly

Committee: House Rules, Calendar, and Operations of the House **Date:** May 2, 2020

Introduced by: Sens. Brown, Harrington, B. Jackson, J. Alexander, T. Alexander, Ballard, Berger, Blue, Britt, Bryan, Burgin, Chaudhuri, Clark, Daniel, D. Davis, J. Davis, deViere, Edwards, Fitch, Ford, Foushee, Gallimore, Garrett, Gunn, Hise, Horner, Johnson, Krawiec, Lowe, Marcus, McInnis, Murdock, Newton, Perry, Peterson, Rabon, Robinson, Sanderson, Sawyer, Searcy, Smith, Steinburg, Tillman, Waddell, Wells, Woodard

Prepared by: Committee Staff

Analysis of: PCS to Third Edition
S704-CSTCfp-57

OVERVIEW: *The Proposed Committee Substitute (PCS) to Senate Bill 704 would make various policy changes related to COVID-19.*

CURRENT LAW/BILL ANALYSIS:

PART I. ECONOMIC SUPPORT

TAX RELIEF PROVISIONS

Section 1.1 adjusts certain tax filings to mirror the relief provided by the IRS so the federal and State income tax laws will continue to work in concert with one another. It waives the accrual of interest on an underpayment of tax imposed on a franchise, corporate income, or individual income tax return, including a partnership and estate and trust tax return, from April 15, 2020, through July 15, 2020. The relief from accrual of interest would also include estimated tax payments due on or before April 15, 2020; that would apply to the first and second quarter estimated taxes. This section does not waive the accrual of interest on the tax payment extension of the other tax types. It also extends certain tax-related administrative and appeals-related deadlines. This section is effective when it becomes law.

UNEMPLOYMENT LAW CHANGES

Sections 1.2 affirms the flexibility to administer unemployment compensation, as allowed by Executive Orders No. 118 and 131, and encouraged by Congress under the *Families First Coronavirus Response Act*. The flexibility extends to the following: determination of unemployed, elimination of the waiting week, work search requirements, attached claims, and non-charging of employer accounts. It also allows a tax credit against the employer's contributions in an amount equal to the amount of contributions payable on the report filed by the employer on or before April 30, 2020. If an employer paid the contributions payable with the report due on or before April 30, 2020, the credit will be applied to the contributions payable on the report due on or before July 31, 2020. If the amount of the credit exceeds the amount of

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contributions due on the report, the excess credit amount is considered an overpayment and will be refunded to the employer. This section is effective when it becomes law.

Sections 1.3 and 1.4 are recommended by the Joint Legislative Oversight Committee on Unemployment Insurance and are based on requests from Division of Employment Security. Section 1.3 allows a claimant to satisfy one of the weekly job contacts by attending a reemployment activity offered by a local career center that the Division has verified as a suitable credit toward the work search requirement. The claimant will have to verify attendance at the activity to DES. This change becomes effective July 1, 2020. Section 1.4 allows an employer to file an attached claim when the unemployment is due directly to a disaster covered by a federal disaster declaration, provides that a lien for county property taxes does not take priority over a previously filed lien for past due contributions, and makes the Joint Legislative Oversight Committee on Unemployment Insurance a permanent interim committee. These sections are effective when they become law.

USE OF BUNCOMBE COUNTY OCCUPANCY TAX PROCEEDS

Section 1.5 would authorize the Buncombe County Tourism Development Authority to use existing occupancy tax proceeds in its Tourism Product Development Fund to provide grants up to \$50,000, through the use of an agency experienced in emergency management funding, to businesses that promote tourism and patronage of lodging facilities in the county and that have either closed or suffered significant economic loss due to the COVID-19 epidemic. The grant program would end 6 months following the date the state of emergency ends. As drafted, this section presents two constitutional concerns. First, providing grants to private businesses to jumpstart or maintain operations may violate a combination of the public purpose doctrine and the exclusive emoluments clause found in Article V, Section 2(1) and Article I, Section 32, respectively. Second, repurposing existing occupancy tax funds for a use other than that set out in existing law may violate the "special object" limitation in Article V, Section 5 of the Constitution.

PART II. EDUCATION

DEFINITIONS

Section 2.1 defines terms used throughout this Part.

INTRODUCTION

Section 2.2 states the purpose of this Part as a response to the COVID-19 emergency.

TESTING WAIVERS

Section 2.3 clarifies or modifies various testing requirements, including EOGs, EOCs, the ACT, diagnostic and formative assessments for grades K-3, and WorkKeys.

SCHOOL REPORT CARD WAIVERS

Section 2.4 waives the requirements for calculation and display of school report cards, and waives certain requirements related to the evaluation of alternative schools and public school building-level reports.

LOW-PERFORMING SCHOOL WAIVERS

Section 2.5 waives identification of new low-performing schools, new continually low-performing schools, and new low-performing local school administrative units, and maintains identifications based on 2018-2019 data.

ISD WAIVERS

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Section 2.6 repeals the requirement that a new school be selected for the Innovative School District (ISD) based on data from the 2019-2020 school year. This section also waives the requirement that schools be added to the qualifying list for the ISD based on 2019-2020 data, and directs that schools added to the qualifying list based on 2018-2019 data remain on the qualifying list for the 2020-2021 school year.

READ TO ACHIEVE WAIVERS

Section 2.7 does the following:

- **Subsection (a): Third Grade Retention Determination.** – Allows principals to make third grade promotion decisions in the same manner as for other grades.
- **Subsection (b): Parental Notice and Interventions.** – Makes the following modifications: (i) directs that statutorily-required notice be provided to parents based on data available up until March 13, 2020, (ii) waives monthly progress reports for students currently retained in third grade after March 16, 2020, (iii) requires that third graders retained for 2020-2021 based on principal discretion receive the same statutorily-required interventions they would have received had they been retained under mandatory retention.
- **Subsection (c): Reading Camps and Recommendation for Alternative Interventions.** – Waives reading camps corresponding to the 2019-2020 school year.
- **Subsection (d): Fourth Grade Reading Assessment.** – Requires a reading assessment to be administered to students entering fourth grade in 2020-2021 within 10 days of the start of the school year.
- **Subsection (e): Reporting Requirements.** – Waives online posting of K-3 reading outcomes. Specifies that reading data collected prior to March 13, 2020, be reported to the Joint Legislative Education Oversight Committee.

ADVANCED MATH PLACEMENT MODIFICATIONS

Section 2.8 requires initial math placement for the 2020-2021 school year to be consistent with local policies, in consultation with the student's 2019-2020 math teacher. Students who are not initially placed in advanced math can opt to take the 2019-2020 end-of-grade or end-of-course test, and if they score at the highest level on the test, must be placed in advanced math for the 2020-2021 school year.

CPR GRADUATION REQUIREMENT WAIVER

Section 2.9 waives the statutory CPR graduation requirement for students who cannot complete it due to the closure of schools for in-person instruction, but are otherwise qualified to graduate.

2019-2020 SCHOOL CALENDAR AND ATTENDANCE MODIFICATIONS

Section 2.10 does the following:

- **Subsection (a): 2019-2020 School Year Calendar.** – Allows remote instruction to satisfy the statutory instructional time requirement.
- **Subsection (b): Student Attendance Enforcement for 2019-2020.** – Waives attendance enforcement requirements beginning March 16, 2020 for the remainder of the 2019-2020 school year.

2020-2021 SCHOOL CALENDAR AND ATTENDANCE MODIFICATIONS

Section 2.11 does the following:

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- **Subsection (a): Remote Instruction Plans.** – Directs public school units to develop Remote Instruction Plans (Plans) for the 2020-2021 school year and submit the Plans to the SBE by July 20, 2020. The Plans must include information as to how the units will deliver quality remote instruction to all students in the 2020-2021 school year as well as information as to how to train teachers, support students and families, and engage with community stakeholders.
- **Subsection (b): School Calendar.** – Mandates the following requirements for the 2020-2021 school year only:
 - Each public school unit must adopt a calendar that includes 190 days of instruction with (i) 185 or 1025 hours of instruction that includes 5 remote instruction days in accordance with the remote instruction plan; and (ii) an additional 5 instruction days that can only be satisfied by individually separate and distinct full instruction days, not by hours.
 - Each local school administrative unit must adopt a calendar that meets the following requirements: (i) opening date for students of August 17, 2020; (ii) closing date for students no later than June 11, 2021; (iii) no remote instruction days scheduled prior to August 24, 2020; and (iv) remote instruction days may be scheduled for use as teacher workdays. Local school administrative units with good cause waivers for the 2020-2021 school year cannot have an opening date for students earlier than August 17, 2020, but can use up to an additional 5 remote instruction days only for make-up days for closures due to inclement weather or other emergency situations. Start and end dates do not apply to calendars for defined year-round or modified calendar schools.
 - If a state of emergency is declared which closes schools for more than 5 days during the 2020-2021 school year, public school units may use additional remote instruction days to satisfy instructional time requirements.
- **Subsection (c): Reporting Requirement.** – Requires the State Board of Education to report to the Joint Legislative Education Oversight Committee on the implementation of remote instruction by September 15, 2020.

SCHOOL IMPROVEMENT PLANS

Section 2.12 provides a 6-month extension for school improvement plans set to expire at the end of the 2019-2020 school year. Those plans can remain in effect until December 31, 2020. The replacement plan would then expire in 18 months rather than 2 years.

PRINCIPAL RECRUITMENT SUPPLEMENT ELIGIBILITY CONTINUATION

Section 2.13 permits eligible schools for purposes of the principal recruitment salary supplement to continue to be eligible schools from the 2019-2020 school year to the 2020-2021 school year and clarifies an incorrect statutory reference.

TEACHER PERFORMANCE NOTIFICATION WAIVER

Section 2.14 waives the requirement for the 2020-2021 school year that principals notify teachers of updated Education Value-Added Assessment System (EVAAS) data from the 2019-2020 school year.

TEACHER EFFECTIVENESS REPORTING WAIVERS

Section 2.15 waives requirements that local school administrative units provide the State Board of Education with teacher performance data from the 2019-2020 school year and that the State Board include such data in its own report and adds a missing statutory heading to G.S. 115C-299.5.

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REVISE TEACHER EVALUATION REQUIREMENTS AND WAIVE TEACHER OBSERVATION REQUIREMENTS

Section 2.16 permits annual teacher evaluations from the 2019-2020 school year to be based on (i) observations completed in the 2019-2020 school year prior to March 13, 2020, and (ii) other artifacts and evidence from the 2019-2020 school year. This section also waives any required observations not completed prior to March 13, 2020.

STANDARDIZED TESTING WAIVER FOR NONPUBLIC SCHOOLS

Section 2.17 waives requirements in the 2019-2020 school year for nonpublic schools to administer and maintain records of standardized tests.

ATTENDANCE AND CALENDAR WAIVER FOR NONPUBLIC SCHOOLS

Section 2.18 waives requirements for nonpublic schools to (i) keep attendance records after March 16, 2020 for the 2019-2020 school year and (ii) operate for at least nine calendar months in the 2019-2020 school year.

STANDARDIZED TESTING AND REPORTING WAIVER FOR NONPUBLIC SCHOOLS WITH OPPORTUNITY SCHOLARSHIP STUDENTS

Section 2.19 waives requirements in the 2019-2020 school year for nonpublic schools with students receiving opportunity scholarship grants to administer and report on standardized tests.

OPPORTUNITY SCHOLARSHIP GRANT LATE DISBURSEMENTS

Section 2.20 allows the State Education Assistance Authority to use carryforward from the Opportunity Scholarship Program to remit scholarship grant funds by October 1, 2020, to a nonpublic school that was unable to complete a parent endorsement for those funds for the spring semester of the 2019-2020 school year.

EXTENSION OF K-12 SCHOLARSHIP PROGRAM REPORT DATES

Section 2.21 provides a one-month extension for the State Education Assistance Authority to submit its annual reports on the Opportunity Scholarship Grant Program and the Disabilities Grant Program to the Joint Legislative Education Oversight Committee.

MODIFICATIONS RELATED TO EDUCATOR PREPARATION PROGRAMS (EPPS)

Section 2.22 does the following:

- **Subsection (a): Waiver of Minimum EPP Admission Requirements.** – Waives the following minimum requirements for EPP admissions for the 2020-2021 academic year: (i) the testing requirement, (ii) the individual GPA requirement of at least a 2.7, provided the student has at least a 2.7 before beginning a clinical internship, and (iii) the cohort GPA requirement of at least a 3.0.
- **Subsection (b): Waiver of EPP Student Clinical Internship Requirement.** – Deems the EPP clinical internship requirement under G.S. 115C-269.25(d)(1) completed under certain conditions, including that the student meet the requirements on the certificate of teacher capacity and continues to work with a school to engage in remote learning as practicable.
- **Subsection (c): Pedagogy Assessments for Certain Teacher Candidates.** – Provides that students whose clinical internship requirement is deemed completed pursuant to subsection (b) of this section cannot be required by the State Board to complete a nationally normed and valid pedagogy assessment as a requirement for completion of the EPP program for the 2019-2020

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academic year but that those students shall be required to attempt the pedagogy assessment by the end of their first year of licensure and must pass the assessment by the end of their third year of licensure.

- **Subsection (d): Waiver of the Report of Certain EPP Performance Data.** – Only requires EPPs to report data to the State Board for the purposes of performance standards that is practicably available during the 2019-2020 academic year due to the lack of student assessment data and the closure of schools for in-person instruction.
- **Subsection (e): Prohibits Certain EPP Data in Assigning Sanctions.** – Prohibits the State Board from considering data that was not practicably available related to the 2019-2020 school year when assigning sanctions to an EPP under G.S. 115C-269.45(c).
- **Subsection (f): Suspension of EPP Report Card Publication.** – Suspends publication of EPP report cards on the State Board Web site for the 2019-2020 academic year but continues the report to the Joint Legislative Education Oversight Committee.

WAIVER OF CERTAIN SCHOOL ADMINISTRATOR PREP PROGRAM REQUIREMENTS

Section 2.23 provides that requirements will be deemed completed for (i) the year-long internship requirement for school administrators under G.S. 115C-284(c2)(7) under certain conditions, including that competencies identified in the certification of capacity are met and the candidate continues to work with a school to engage in administrative duties as practicable and (ii) the portfolio requirement for emerging leaders, provided it is finished to the extent practicable prior to completion of the school administrator preparation program.

WAIVER OF CERTAIN TRANSFORMING PRINCIPAL PREP PROGRAM REQUIREMENTS

Section 2.24 provides that the school leader clinical practice requirement under G.S. 116-209.72(a)(2)e. will be deemed completed under certain conditions and that a grant recipient shall not have grant funds retrieved for failure to require school leader candidates to complete a full-time paid clinical practice of at least five months and 750 hours in duration as part of the program during the 2019-2020 academic year.

EXTENSION OF TEACHER LICENSURE REQUIREMENTS AND CEUS FOR CONTINUING LICENSURE

Section 2.25 provides one-year extensions for teachers to meet licensure requirements set by the State Board. For teachers who are required to meet continuing education requirements for continuing licensure by June 30, 2020, provides a one-year extension to meet those requirements.

EXTENSION OF SCHOOL ADMINISTRATOR AND SCHOOL PROFESSIONAL LICENSURE EXAM REQUIREMENTS AND CEUS FOR LICENSURE RENEWAL

Section 2.26 provides one-year extensions for school administrators and other school personnel to meet licensure examination requirements set by the State Board and for school administrators who are required to meet continuing education requirements for licensure renewal by June 30, 2020, provides a one-year extension to meet those requirements.

WAIVER OF APPRENTICESHIP REQUIREMENT FOR COMMUNITY COLLEGE TUITION WAIVER

Section 2.27 provides that a student who is unable to participate in an apprenticeship program due to the COVID-19 emergency may be eligible for a tuition waiver for community college courses until December 31, 2020.

WAIVER OF INTEREST CHARGES ON UNC STUDENT DEBT

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Section 2.28 provides that a constituent institution shall not accrue or charge interest to a past due account receivable held by a student between March 13, 2020, and September 15, 2020.

EXTENSION OF UNC REPORT DATES

Section 2.29 extends various report dates for The University of North Carolina.

Part II is effective when it becomes law.

PART III. HEALTH

SUBPART IIIA. DEFINITIONS

Section 3A.1 would establish definitions for "CDC," "COVID-19," "COVID-19 diagnostic test," "COVID-19 emergency," and "COVID-19 antibody test." This section would be effective when it becomes law.

SUBPART IIIB. AFFIRMATIONS OF ACTIONS TAKEN IN RESPONSE TO COVID-19

Section 3B.1 expresses the General Assembly's support for the actions taken by the North Carolina Medical Board, the North Carolina Board of Nursing, other health care provider licensing boards, and the State's teaching institutions for health care providers in response to the COVID-19 emergency. The General Assembly also affirms its support for:

- Encouraging front-line health care workers, law enforcement officers, and child care workers to have priority access to a COVID-19 vaccine when it is introduced.
- Pursuing all available federal waivers for child welfare.
- Providing flexibility to the State's teaching institutions for health care providers to ensure their students complete the necessary clinical hours.

This section would become effective when it becomes law.

SUBPART IIIC. INCREASED ACCESS TO MEDICAL SUPPLIES NECESSARY TO RESPOND TO COVID-19 AND FUTURE PUBLIC HEALTH EMERGENCIES

STATE PLAN FOR A STRATEGIC STATE STOCKPILE OF PERSONAL PROTECTIVE EQUIPMENT AND TESTING SUPPLIES FOR PUBLIC HEALTH EMERGENCIES

Section 3C.1(a) would establish definitions for "acute care providers," "first responders," "health care providers," "long-term care providers," and "non-health care entities."

Section 3C.1(b) would direct the Division of Public Health (DPH) and the Division of Health Service Regulation (DHSR) within the Department of Health and Human Services (DHHS), in conjunction with the North Carolina Division of Emergency Management within the Department of Public Safety to develop a plan for creating and maintaining a strategic state stockpile of personal protective equipment (PPE) and testing supplies. This plan must be submitted to the Joint Legislative Oversight Committee on Health and Human Services and the Joint Legislative Oversight Committee on Justice and Public Safety.

Section 3C.1(c) would require the plan to include:

- Recommendations about which agency should lead the stockpile effort.
- Improvements to the state procurement process for PPE.
- Recommendations on who should have access to the stockpile.

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- Ways to increase production of PPE within the state.
- Recommendations about procuring testing supplies.
- Potential locations for the stockpile.
- Recommendations about the source, type, quality, and quantity of PPE and testing supplies the State should maintain.
- An inventory mechanism.
- A five-year budget.
- Any other items deemed necessary.

This section would become effective when it becomes law.

PRIORITY CONSIDERATION OF NORTH CAROLINA-BASED COMPANIES WHEN ADDRESSING PUBLIC HEALTH EMERGENCIES

Section 3C.2 would require DHHS and the Division of Emergency Management within the Department of Public Safety to first consider North Carolina based companies when creating mobile response units. This section would be effective when it becomes law.

SUBPART IIID. SUPPORT FOR HEALTH CARE PROVIDERS TO RESPOND TO COVID-19 DENTAL BOARD FLEXIBILITY DURING DISASTERS AND EMERGENCIES

Under current law, the Board of Dental Examiners does not have the authority to waive any statutory requirements in an emergency. The Medical Board and the Board of Nursing do have the authority to waive statutory requirements in an emergency.

Section 3D.1 would amend the Dental Practice Act to give the Board of Dental Examiners the authority to waive requirements of the Act and the Dental Hygiene Act during a declared state of emergency in order to permit the provision of dental care during the emergency. This section would become effective when it becomes law.

AUTHORIZATION FOR DENTISTS TO ADMINISTER COVID-19 TESTS

Section 3D.2 would amend the definition of the practice of dentistry in G.S. 90-29(b) to include the administration of COVID-19 diagnostic and antibody tests. This section would become effective when it becomes law.

AUTHORIZATION PROCESS FOR IMMUNIZING PHARMACISTS TO ADMINISTER COVID-19 IMMUNIZATIONS/VACCINATIONS

Section 3D.3(a) would allow any individual to petition the State Health Director to authorize immunizing pharmacists to administer a COVID-19 vaccine by means of a statewide order if one is approved by the CDC at a time when the General Assembly is not in session. The Director would have to consult with stakeholders before issuing a decision on the petition. **Section 3D.3(b)** would allow the Director to issue a statewide standing order allowing immunizing pharmacists to administer a COVID-19 vaccine and make any statewide standing order issued by the Director expire upon the adjournment of the next regular session of the General Assembly. **Section 3D.3(c)** would require the Director to submit a minimum standard screening questionnaire and safety procedures for written protocols for the vaccine to the Joint Legislative Oversight Committee on Health and Human Services, the North Carolina Medical Board, the North Carolina Board of Nursing, and the North Carolina Board of Pharmacy within 10 days of approving the petition. If the Director does not do so, those protocols must be developed by the Immunization Branch of the Division of Public Health. **Section 3D.3(d)** would make the Director and any pharmacists administering COVID-19 vaccinations pursuant to the Director's order immune from civil and criminal liability. This section would become effective when it becomes law.

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PRESCRIPTION IDENTIFICATION REQUIREMENTS

Section 3D.4 would allow pharmacists to use the visual inspection of any government-issued photo I.D. to identify patients picking up prescriptions. Pharmacists would also be permitted to identify known customers by examining existing records. They would be required to review a patient's history on the controlled substances reporting system before filling an initial prescription for a Schedule II controlled substance only if it were already required under existing law. This section would become effective when it becomes law and expire 60 days after Executive Order 116 is rescinded or December 31, 2020, whichever is earlier.

TEMPORARY FLEXIBILITY FOR QUALITY IMPROVEMENT PLANS

Under current law, physician assistants and nurse practitioners must establish a practice arrangement with a licensed physician. One element of this arrangement is that the physician assistant or nurse practitioner must meet periodically with the physician as part of a quality improvement process. These arrangements must be renewed annually. There is an annual license renewal fee that physician assistants and nurse practitioners must pay.

Section 3D.5(a) would establish definitions for "quality improvement plan rules," "application fee rules," and "annual renewal rules." **Sections 3D.5(b), (c), and (d)** would prohibit the Medical Board and the Board of Nursing from enforcing any administrative rule that required any of the following:

- Quality improvement meetings between a physician and a physician assistant or nurse practitioner who had been practicing prior to February 1, 2020, and was continuing to practice when the section is enacted.
- Monthly quality improvement meetings between a physician and a physician assistant or nurse practitioner during the first six months of the practice arrangement.
- Any quality improvement meetings or payment of a license fee by a physician assistant or nurse practitioner who is providing volunteer services in response to the COVID-19 pandemic.
- The annual renewal or review of any practice arrangement between a physician and a physician assistant or nurse practitioner.

This section would become effective when it becomes law and expires December 31, 2021.

PANDEMIC HEALTH CARE WORKFORCE STUDY

Sections 3D.6(a), (b), (c), (d), and (e) would charge the North Carolina Area Health Education Center (NC AHEC) with studying the issues that impact health care delivery and the health care workforce during a pandemic, including issues that need to be addressed in the aftermath of this pandemic and plans that should be implemented in the event of a future health crisis. Input must be solicited from all relevant stakeholders. Issues to be examined include:

- Adequacy of the health care workforce supply to respond to a pandemic by setting.
- Adequacy of the health care workforce supply to address the COVID-19 surge.
- Adequacy of the health care workforce training, by setting.
- Impact of the COVID-19 pandemic on communities with pre-existing workforce shortages.
- Impact of Personal Protective Equipment (PPE) availability on the health care workforce, by setting.
- Sufficiency of support mechanisms for the health care workforce.
- Impact of postponing or eliminating non-essential services and procedures on the health care workforce.

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- Impact of postponing or eliminating non-essential services and procedures on hospitals, particularly rural hospitals.
- Interruptions on the delivery of routine health care during the COVID-19 pandemic.
- Impact of the COVID-19 pandemic on the delivery of behavioral health services.
- Ability of telehealth options to deliver routine and emergent health and behavioral health services to patients.
- Impact of telehealth on hospitals during the COVID-19 pandemic.
- Support necessary to resume health care delivery to pre-pandemic levels.
- Ability of the health care workforce and health care delivery structure to respond to the needs of minority populations, individuals with health disparities, and individuals and communities with increased health risks during a pandemic.
- Impact of the COVID-19 pandemic, including concerns surrounding PPE availability, on current health sciences students and implications for future students contemplating a career in health sciences.

The NC AHEC would be required to report findings and recommendations to the House Select Committee on COVID-19, Health Care Working Group, on or before November 15, 2020. The NC AHEC would also be authorized to report subsequent study findings and recommendations, as appropriate, to the Joint House Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Joint Legislative Oversight Committee on Health and Human Services. This section would become effective when it becomes law.

HEALTH CARE LIABILITY PROTECTION FOR EMERGENCY OR DISASTER TREATMENT

Section 3D.7 would grant health care facilities and providers immunity from civil or criminal liability for acts and omissions in the course of arranging health care services if all of the following apply:

- The services are provided pursuant to a COVID-19 emergency.
- The health care services are impacted by (1) a provider or facility's decisions in response to the COVID-19 epidemic, or (2) by the decisions or activities, in response to or as a result of the COVID 19 epidemic, of a health care facility or entity where a health care provider provides health care services.
- The health care facility or provider is arranging the services in good faith.

Immunity would not apply if the damages were caused by willful or intentional misconduct, gross negligence, reckless misconduct, or intentional infliction of harm on the part of the health care facility or provider. Volunteer organizations would be immune from liability for damages that occur at their facility unless the volunteer organization unless there was willful or intentional misconduct, gross negligence, reckless misconduct, or intentional infliction of harm on the part of the volunteer organization. This section would become effective when it becomes law and would apply to acts or omissions occurring during the time of Executive Order No. 116 issued on March 10, 2020, by Governor Roy A. Cooper, and any subsequent time period during which a state of emergency is declared to be in effect during calendar year 2020.

DISPENSE AND USE OF CONTROLLED SUBSTANCES TEMPORARILY AT ADDITIONAL PLACES OF BUSINESS

Section 3D.8 would allow licensed hospitals, nursing homes, and clinics to dispense controlled substances at additional business locations, provided they followed a registration process developed by the Division of Mental Health, Developmental Disabilities and Substance Abuse Services of the North Carolina

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Department of Health and Human Services. This section would become effective when it becomes law and expire 60 days after Executive Order No. 116 is rescinded, or December 31, 2020, whichever is earlier.

PRE-PROCEDURE COVID-19 TEST RESULT REPORTING

Section 3D.9 would require healthcare providers to report the results of COVID-19 testing performed prior to non-emergency surgery to the Commission for Public Health. This section would become effective when it becomes law.

SUBPART III.E. INCREASED FLEXIBILITY FOR THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO RESPOND TO COVID-19

EXTENSION OF TIME FOR ESTABLISHING CONNECTIVITY TO THE STATE'S HEALTH INFORMATION EXCHANGE NETWORK KNOWN AS HEALTHCONNEX

Under current law, most healthcare providers in the state are required to connect to the health information exchange and submit demographic and clinical data by June 1, 2020. Most providers who are not connected by that date will be ineligible to receive state funds.

Section 3E.1(a), (b) and (c) would extend the deadline from June 1, 2020, to October 1, 2021, for most providers and entities to begin submitting demographic and clinical data to the Health Information Exchange Network and make other conforming changes. This section would become effective when it becomes law.

TEMPORARY WAIVER OF THREE-YEAR FINGERPRINTING REQUIREMENT/CHILDCARE PROVIDERS/ADOPTIONS/FOSTER CARE

Section 3E.2(a) would temporarily waive the requirement that all child care providers complete a fingerprint-based criminal history check every three years. **Section 3E.2(b)** would clarify that name-based background checks must continue to be performed in accordance with Federal law. Fingerprint checks would be resumed 60 days after Executive Order 116 is rescinded. **Section 3E.2(c)** would require DHHS to temporarily waive fingerprint background checks for adoptions, foster care, or child care institutions. Name-based background checks must continue to be performed in accordance with Federal law. Fingerprint checks would be resumed 60 days after Executive Order 116 is rescinded. This section would become effective when it becomes law and expire 60 days after Executive Order 116 is rescinded or December 31, 2020, whichever is earlier.

MODIFICATION OF FACILITY INSPECTIONS AND TRAINING TO ADDRESS INFECTION CONTROL MEASURES FOR COVID-19

Section 3E.3(a) would instruct the Division of Health Service Regulation (DHSR), DHHS, and local departments of social services to suspend all annual inspections, regular monitoring requirements, and adopted rules for licensed facilities for persons with disabilities or substance use disorders, adult care homes, hospitals, health care facilities licensed under Article 6 of Chapter 131E, and hospices. Annual inspections, regular monitoring requirements, or adopted rules deemed necessary by DHSR to avoid serious injury or death, or as directed by CMS, would not be suspended. **Section 3E.3(b)** would require DHSR to review the compliance history of facilities for persons with disabilities or substance use disorders and adult care homes found to be in violation, assessed penalties, or placed on probation within the six-month period preceding the beginning of the COVID-19 emergency for noncompliance with rules or CDC guidelines regarding infection control or the proper use of personal protective equipment. Employees of these facilities must undergo immediate training, permissible by video conference, about infection control and the proper use of personal protective equipment. This section would become effective when it becomes law and expire 60 days after Executive Order 116 is rescinded or December 31, 2020, whichever is earlier.

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ALLOW TEMPORARY WAIVER OF 72-HOUR PRE-SERVICE TRAINING REQUIREMENT/CHILD WELFARE STAFF

Section 3E.4 would allow the Department of Health and Human Services, Division of Social Services, to waive the 72-hour requirement of preservice training before child welfare services staff assumes direct client contact responsibilities. The Division is authorized to use web-based training in order to meet preservice training requirements. This section would become effective when it becomes law and expire 60 days after Executive Order 116 is rescinded or December 31, 2020, whichever is earlier.

SUBPART III.F. INCREASED ACCESS TO HEALTH CARE THROUGH TELEHEALTH TO RESPOND TO COVID-19

EXPANDED USE OF TELEHEALTH TO CONDUCT FIRST AND SECOND INVOLUNTARY COMMITMENT EXAMINATIONS DURING THE COVID-19 EMERGENCY

Section 3F.1(a) would establish definitions for "Commitment examiner," "Telehealth," and "Qualified professional." **Section 3F.1(b) and (c)** would allow the first and second examinations, respectively, to be conducted via telehealth, provided that the commitment examiner is reasonably certain that a different result would not have been reached in a face-to-face examination. This section would become effective when it becomes law and expire 30 days after Executive Order 116 is rescinded.

INCREASED ACCESS TO TELEHEALTH UNDER THE MEDICARE PROGRAM

Section 3F.2 states that the General Assembly urges the Centers for Medicaid and Medicare to provide coverage for health care provided through audio-only communication.

PART IV. CONTINUITY OF STATE GOVERNMENT

Section 4.1 would authorize, until August 1, 2020, a notary to perform acknowledgments and administer oaths and affirmations through the use of video conference technology if the notary and principle are physically present in North Carolina at the time of notarization and provided certain requirements are met. The section would also (i) extend for 45 days the time an applicant granted a commission by the Secretary of State after March 9, 2020, and before August 1, 2020, to appear before a register of deeds and take the general oath of office and (ii) authorize a register of deeds to administer the required oath to such appointee using video conference technology. This section is effective when it becomes law.

Section 4.2 would allow a person to witness a principal sign a document by using video conference technology instead of being in the physical presence of the principal if the technology allows for direct, real time audio and video interaction between the principal and the witness. An attesting witness will be considered to have signed the record in the presence of the principal if the witness signs the record immediately after observing the principal sign it and while still in direct communication using the technology. Both the principle and witnesses must be physically located in North Carolina. This section would expire on August 1, 2020.

Section 4.3 would clarify that masks may be worn on certain public and private premises to ensure the physical health or safety of the wearer or others, but require the wearer to remove that mask upon the request of a law enforcement officer during a traffic stop or when the officer has reasonable suspicion or probable cause during a criminal investigation. Currently, the law allows masks to be worn for the following reasons: holidays; employment purposes; theatrical productions; defense drills, exercises, or emergencies; as part of a parade, ritual, initiation, ceremony, or celebration requirement of a society, order

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or organization; or when operating a motorcycle. This section would be effective when it becomes law and expire August 1, 2020.

Section 4.4 would clarify that any signature required for the issuance of a search warrant or judicial order issued following a court hearing conducted by remote audio or visual transmission in a civil or criminal case, may be signed by use of an electronic signature. This section would be effective when it becomes law and expire on August 1, 2020.

Section 4.5 would allow a lottery prize winner to submit a delayed claim for a lottery prize that is expiring or awarded between March 10, 2020, and August 1, 2020. The claim must be submitted to the Lottery Commission in writing no later than 90 days after the date the online game prize was announced or the instant game has closed. This section would be effective when it becomes law.

Section 4.6 would require the Lottery Commission to submit a report relating to COVID-19 and associated economic impact on sales of lottery games, revenues, retailers, expenses, and transfers of net revenue to the Joint Legislative Oversight Committee on the State Lottery and the Fiscal Research Division on or before September 1, 2020.

Section 4.7 would extend for five months the validity of any credential issued by the Division of Motor Vehicles that expires between March 1, 2020, and before August 1, 2020, would waive fines, fees, and penalties associated with failing to renew an extended credential, and would extend the due date for motor vehicle taxes for extended registrations.

Section 4.8 would delay the DMV Headquarters move. A 2018 budget provision directed all workers at the Division of Motor Vehicles Headquarters in Raleigh to vacate the property by October 1, 2020. This section would amend that provision, requiring that they only begin to vacate by that date.

Section 4.9 would amend the law establishing the Transportation Emergency Reserve by providing the Department of Transportation does not have to transfer funds to the Reserve for the 2020-2021 fiscal year.

Section 4.10 would amend the statutes related to Health Care Powers of Attorney and Advanced Directives for a Natural Death to waive the requirement that the principal's signature be executed in the presence of two qualified witnesses. This waiver would apply as long as the document is signed by the principal and properly acknowledged before a notary and would apply to those documents executed on or after the effective date of this section and prior to termination of the State of Emergency declared by Governor Roy Cooper in Executive Order No. 116, on March 10, 2020. This section would expire on August 1, 2020.

Section 4.11 would allow a sheriff to serve process on a resident of a long-term care facility during a declared state of emergency for public health reasons by leaving a copy of the notice of hearing and petition with the employee of the facility who is apparently in charge of the office or who has apparent authority to receive documents intended for residents. The employee would then present the documents to the resident respondent. Proof of service would be filed with the clerk showing how the respondent was served. This section would become effective when it becomes law and expire August 1, 2020.

Section 4.12 would amend Chapter 45A of the General Statutes, Good Funds Settlement Act, to allow a settlement agent in a real estate transaction involving a one to four family residential dwelling or a lot restricted to residential use to disburse closing funds from the settlement agent's trust or escrow account prior to recording the deeds, deeds of trust, and any other required loan documents in the office of the register of deeds upon the written consent of the parties involved. Authority to disburse prior to recording would be limited to those areas under a declaration of emergency issued by the Governor or General Assembly where the office of the register of deeds is closed to the public and unable to accept documents

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for electronic recording. This section would become effective when it becomes law and would expire on August 1, 2020.

Section 4.13 would authorize each Register of Deeds to issue a license for marriage via remote audio-video communication provided the register of deeds can positively identify each applicant before the register of deeds, rather than having the applicants appear in person, and that marriage license would be valid for up to 120 days, rather than 60 days. This section would become effective February 1, 2020, and expire August 1, 2020.

Section 4.14 provides time-limited civil liability immunity to essential businesses for injuries or death resulting from customers or employees contracting COVID-19 at the business. Immunity is also extended to emergency response entities with regard to customers that do business with the entity being injured as a result of COVID-19. Immunity does not apply, however, if the harm is caused by gross negligence, reckless misconduct, or intentional infliction of harm.

Section 4.15 addresses personnel matters at the Department of Public Safety. **Section 4.15(a)** would provide that providing certain security services at a State prison facility is an authorized function of a person licensed as a security guard and patrol professional under Chapter 74C of the General Statutes. **Section 4.15(b)** would require that any security guard and patrol professional employed to provide services at a State prison facility must be trained in State prison policies prior to providing any services, and if so trained, may detain and use necessary force pursuant to those policies to prevent contraband entry and inmate escape. This section would become effective when it becomes law, and expire August 1, 2020.

Section 4.16 would authorize a justice or judge of the General Court of Justice to remotely administer the oath prescribed for attorneys using a form of live video conferencing technology, provided the swearing attorney is personally known to the justice or judge or the swearing attorney provides satisfactory evidence of identity. This section would become effective when it becomes law and expire December 1, 2020.

Section 4.17 would specifically permit release of communicable disease health information by the DHHS or a local health department to a law enforcement official (i) to prevent or lessen a serious or imminent threat to the health or safety of a person or the public to the extent allowed under HIPPA; (ii) to enforce the communicable disease and health laws of this State; or (iii) to investigate a terrorist incident using nuclear, biological, or chemical agents. The law enforcement official would be limited in disclosing the information shared. This section would become effective when it becomes law.

Section 4.18 would authorize an individual licensed as a soil scientist to prepare signed and sealed soil and site evaluations, specifications, plans, and reports for the site layout, construction, operation, and maintenance of a wastewater system without needing any further certification from the North Carolina On-Site Wastewater Contractors and Inspectors Board. A licensed soil scientist would also be authorized to conduct all necessary inspections, certifications, and approvals, including the issuance of the final inspection and report. Such authority would be at the direction of the owner of a proposed on-site wastewater system and would expire August 1, 2020.

Section 4.19 would authorize the Secretary of the Department of Environmental Quality (DEQ) to protect the public health and environment, to develop and implement emergency measures and procedures necessary for the proper management of solid waste generated during the Coronavirus emergency. The Secretary may act on the Secretary's own initiative, or upon the request of a public or private landfill operator. This section would become effective when it becomes law and would expire August 1, 2020.

Section 4.20 would also allow a county, city, or private company that is providing collection services for yard waste to request a waiver from the Department of Environmental Quality (DEQ) to allow the disposal

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of yard waste in a landfill when able to show that prohibiting the disposal would constitute an economic hardship or a potential public health risk. This section would become effective when it becomes law and would expire August 1, 2020.

Section 4.21 would authorize the State Treasurer, with approval of the Board of Trustees for the State Health Plan, to give certain members or employing units the option to defer premium or debt payment when there is a state of disaster or emergency. A deferral period would not last beyond 90 days from the last day of the time period in which there is a state of disaster. Any payments in arrears would continue to be owed to the State Health Plan. Currently, the Commissioner of Insurance has authority to order a deferral of insurance premium and debt payment in the event of a state of emergency or disaster. This authority does not apply to the State Health Plan. This section would be effective retroactively to January 1, 2020.

Section 4.22 would temporary allow the Director of the Retirement Systems Division to make interim, eligibility only determinations and certifications and these interim decisions would be in place only until the medical board was able to make a final determination. The Director would not be able to determine that any individual was not eligible for disability benefits. If the medical board later determined that an individual found eligible by the Director was not eligible for benefits, then the medical board's decision would be a final decision and the benefit payments would cease. An individual would not be required to refund any payments or benefits received during that interim period. Currently, the medical board makes eligibility, or ineligibility, determinations and certifications for disability benefits under the Teachers' and State Employees' Retirement System, the Consolidated Judicial Retirement System, the Legislative Retirement System, and the Governmental Employees' Retirement System, and for the Disability Income Plan of North Carolina. These determinations and certifications are considered final decisions.

Section 4.23 would temporarily change the six month separation requirement for Teachers' and State Employee's Retirement System (TSERS) retirees to a one-month separation and applies to individuals retiring on or after October 1, 2019, but before April 1, 2020, who return in a position needed due to COVID-19. This section temporarily lifts the earnings caps for TSERS and Local Governmental Retirement System (LGERS) retirees from March 10, 2020 until expiration for those retirees who retired prior to April 1, 2020 and return in a position needed due to COVID-19. This section also requires that any work performed between March 10, 2020, and the time that this section expires does not impact a law enforcement officer's special separation allowance benefits if the officer returns in a position needed due to COVID-19. This section would become effective when it becomes law and would expire on August 1, 2020.

Section 4.24 would authorize, a State agency, as defined in G.S. 147-86.20(5), to waive any interest due on a past due account receivable. This section would not apply to money owed to the University of North Carolina Health Care System or to East Carolina University's Division of Health Sciences for health care services, to the North Carolina Turnpike Authority for money owed to the Authority for tolls, or to the North Carolina State Health Plan for past due account receivables related to premiums and claims payments. This section would become effective when it becomes law and would expire on August 1, 2020.

Section 4.25 would provide for the rescheduling of public hearings during temporary rule making. Under the State Administrative Procedure Act, there is a provision for rescheduling cancelled public hearings during the permanent rule making process, but there isn't such a provision for the temporary rule making process. **Section 5.22.(a)** would add the same type of provision for rescheduling cancelled public hearings for the temporary rule making process. This section would become effective retroactively to March 10, 2020.

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Section 4.26 would authorize the Chief Administrative Law Judge to extend the time period for the filing of petitions for contested cases, but only if the Chief Justice of the North Carolina Supreme Court has determined that catastrophic conditions exist. Currently, if the Chief Justice of the North Carolina Supreme Court determines that catastrophic conditions exist, the Chief Justice may extend the time period for the filing of pleadings, motions, notices, and other documents and papers. This section would become effective retroactively to March 10, 2020.

Section 4.27 would provide that the budget officer of a unit of local government must file a copy of the unit's proposed budget with the clerk to the unit's governing board and that the clerk may post a copy of the proposed budget on the website of the unit of local government and must make the proposed budget available for public inspection. This section would become effective when it becomes law and would expire on August 1, 2020.

Section 4.28 would permit the Secretary of the Local Government Commission to set the amount of money local governments keep on hand that require daily deposit during a declared emergency. This section would authorize the Secretary to allow less than daily but no fewer than weekly deposits provided the money is maintained in a secure location. This section would become effective when it becomes law.

Section 4.29 would require local finance officers to submit statements of financial information concerning COVID-19 impacts on local finances to the Local Government Commission (LGC) by February 15, 2021 and would require the LGC to submit a report of this information and any recommended legislation to the Joint Legislative Committee on General Government and the Fiscal Research Division by March 15, 2021.

Section 4.30 would reauthorize counties and municipalities to issue special obligation bonds and notes. Former Chapter 159I of the General Statutes primarily concerned solid waste management program funding; however, one section of the Chapter, G.S. 159I-30, more broadly authorized counties and municipalities to issue special obligation bonds and notes not only for solid waste projects, but also for water projects, wastewater projects, and, for municipalities, any project authorized under G.S. 160A-536 provided in a municipal service district. Session Law 2019-32 repealed Chapter 159I in its entirety, effective July 1, 2019, inadvertently eliminating the broader special obligation bond authority used by local units of government for a variety of the authorized purposes. **Section 4.30(a)** would reinstate this authority and recodify it under Chapter 159, where other forms of local government indebtedness are authorized. **Sections 4.30(b)-(h)** make conforming changes to statutes affected by the recodification. This section would become effective retroactively to July 1, 2019, the effective date of the inadvertent repeal.

Section 4.31 would add a provision to the Emergency Management Act to specifically authorize official meetings of public bodies including closed sessions, public hearings, and quasi-judicial hearings to be conducted via remote, simultaneous communication during periods of declarations of emergency under G.S. 166A-19.20 and would make conforming changes to clarify that counties and cities may meet via simultaneous communication. This section would become effective when it becomes law and would apply throughout the duration of any declaration of emergency issued under G.S. 166A-19.20 in effect on or after that date.

Section 4.32 would extend to August 1, 2020, the final report of the Child Well-Being Transformation Council to the chairs of the House of Representatives Appropriations Committee on Health and Human Services, the Joint Legislative Oversight Committee on Health and Human Services, and the Fiscal Research Division. This section would be effective when it becomes law.

Section 4.33 would delay the effective date of the new consolidated land use planning statutes, Chapter 160D of the General Statutes, from January 1, 2021, to August 1, 2021, to give more time to counties and cities to review, amend, and adopt comprehensive local land use ordinances as required by that Chapter. This section would become effective when it becomes law.

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Section 4.34 would allow land use development ordinances adopted by a county or city to reference or incorporate by reference flood insurance rate maps, watershed boundary maps, or other maps officially adopted or promulgated by State and federal agencies and would authorize those ordinances or zoning maps to incorporate by reference the most recent officially adopted version of such maps. This section would also authorize land use development ordinances to provide that the zoning district boundaries are automatically amended to remain consistent with changes in the officially promulgated State or federal maps, provided a copy of the currently effective version of any incorporated map is maintained for public inspection by the county or city. This section would become effective when it becomes law and would expire August 1, 2021.

Section 4.35 would change the reporting date for the General Statutes Commission report and recommendations on the local government ordinances and North Carolina Administrative Code rules that criminalize conduct required by S.L. 2019-198 from May 1, 2020 to March 1, 2021.

Section 4.36 would extend until September 1, 2020, the date that transportation network sign company's must comply with signage requirements. This section would be effective when it becomes law.

Section 4.37 would extend until August 1, 2020, the Joint Legislative Study Committee on Small Business Retirement Options final report and any legislative proposals to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Fiscal Research Division. This section would be effective retroactively to March 31, 2020.

Section 4.38 would direct State agencies to exercise regulatory flexibility during the Coronavirus emergency. **Section 4.38(a)** would define "State agency" for purposes of this section to mean an agency or an officer in the executive branch, including the Council of State, the Governor's Office, a board, a commission, a department, a division, a council, and any other unit of government in the executive branch. "State agency" would not include the Division of Employment Security of the Department of Commerce, the Department of Health and Human Services, the State Board of Education, the Department of Public Instruction, The University of North Carolina, the State Board of Community Colleges, or the State Board of Elections. **Section 4.38(b)** would provide that, notwithstanding any other provision of State law, if a State agency determines that, due to the impacts of the Coronavirus, it is in the public interest, including the public health, safety, and welfare and the economic well-being of the citizens and businesses of the State, the agency must: (i) delay the collection of or modify the method the collection of any fees, fines, or late payments assessed by the agency under its statutes, including the accrual of interest associated with any fees, fines, or late payments; (ii) delay the renewal dates of permits, licenses, and other similar certifications, registrations, and authorizations issued by the agency pursuant to its statutes; and (iii) delay or modify any educational or examination requirements implemented by the agency pursuant to its statutes. **Section 4.38(c)** would direct each State agency to report to the Joint Legislative Administrative Procedure Oversight Committee, the Joint Legislative Commission on Governmental Operations, and the Office of State Budget and Management on its specific efforts to exercise regulatory flexibility under this section. The reports would be due no later than October 1, 2020. **Section 4.38(d)** would direct State agencies to exercise the authority granted in this section to the maximum extent practicable. **Section 4.38(e)** would authorize State agencies to adopt emergency rules for the implementation of this act and provide that an emergency rule adopted pursuant to this act will remain in effect during the pendency of the Coronavirus emergency, unless the State agency specifies an earlier expiration date. This section would be effective retroactively to March 10, 2020, and expire August 1, 2020.

Section 4.39 would authorize the Forensic Tests for Alcohol Branch of the Department of Health and Human Services to delay or modify any educational or examination requirements for recertification of law enforcement officers and, for certifications issued prior to March 10, 2020, would authorize the Branch to extend those certifications for up to one year if the educational or examination requirements

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associated with renewal or recertification are delayed in accordance with this section. This section would be effective retroactively to March 10, 2020, and expire January 1, 2021.

Section 4.40 would provide that for any development approval that is current and valid at any point during the period beginning March 10, 2020, and ending April 28, 2020, the expiration date of the period of development approval and any associated vested rights is extended for five months. A development approval is defined as one of several approvals issued by a unit of local government, including building permits, sketch plans, site specific development plans, and development permits. This section would be effective when it becomes law and would expire September 28, 2020.

Section 4.41 would allow a chief district court judge, until August 1, 2020, to modify an order of confinement or imprisonment in a local confinement facility if all the following conditions exist:

- Due to the local confinement facility's restrictions on inmates during the COVID-19 State of Emergency, the defendant is unable to serve one or more periods of confinement.
- Unless the order is modified, the defendant would be in violation of the criminal judgment.
- The District Attorney consents to the modification of the criminal judgment.

This section would be effective when it becomes law and would expire August 1, 2020.

Section 4.42 would authorize the North Carolina Department of Emergency Management to utilize North Carolina Regional Councils of Government administering Federal Emergency Management Agency public assistance and individual assistance funds.

Section 4.43 would extend until July 15, 2020, any report required to be submitted after March 10, 2020, but before July 15, 2020, to a joint legislative oversight committees of the General Assembly and would require any report due on or after July 15, 2020 to be submitted as required by law.

PART V. SEVERABILITY

Section 5 would allow severability of provisions in the event any section is held invalid.

EFFECTIVE DATE: Except as otherwise provided, SB 704 is effective when it becomes law. If HB 1043 is vetoed, SB 704 is repealed. If the veto of HB 1043 is overridden, SB 704 is reenacted.