

## NC Legislative Update June 12, 2020

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Lawmakers returned to Raleigh this week to continue their push to wrap up the short session by the end of the month. The legislature historically ends the short session by July, however, in the last few years the session has been extended into the fall. Next week is rumored to be the last week that the Senate will hold committee meetings in an effort to wind down the session. Both chambers are reported to be working on a conference report for a technical corrections bill, but a draft has not yet been made public. Technical corrections bills in the past have collapsed under their own weight, as members try to use them as a vehicle for legislation that failed to make it through the process.

Both chambers have continued to move individual funding bills through committee, as the General Assembly is not expected to pass a traditional full budget this year. The state is currently expected to have a significant revenue shortfall due to COVID-19, and is currently waiting for guidance from the federal government on using federal CARES Act dollars to fill budget holes.

The state remains under Phase II of Governor Cooper's three-part plan to reopening. Restaurants and hair salons are open at 50% capacity and the stay at home order has been lifted as part of Phase II, spelled out in Executive Order 141. Phase II also limits mass gatherings to no more than 25 people. Several groups, including gyms, have filed lawsuits hoping the courts will allow them to open. Last week, Governor Cooper announced he was considering moving the state into a "Phase 2.5" which would ease some restrictions, but not fully move the state into Phase III. The state is expected to move into Phase III at the end of the month or early July. However, Department of Health and Human Services (DHHS) Secretary Mandy Cohen announced this week that if positive cases and hospitalizations continue to increase or spike, the state may have to return to a state-at-home order.

NPR: N.C. Health Secretary Warns Of Surge In Cases, Possible Return Of Stay-At-Home Orders

## Governor Vetoes Restaurant/Bar Bill

Governor Cooper has vetoed legislation that would have allowed restaurants and bars to operate at 50% of their capacity outdoors. Restaurants can currently operate at 50% of their capacity indoors, but bars are not allowed to open. The bill would have removed the Governor's power to act in future instances if a spike in COVID-19 cases occurred. Removing the ability to act in future cases was Governor Cooper's main objection to the bill in his veto message. The bill passed the Senate with broad support, but did not get a veto-proof vote in the House. The House originally scheduled a veto override vote on the bill this week, but pulled that item from the calendar.

After the veto, the legislature took a second shot at passing the restaurant and bar language by combining it with a bill to allow gyms and personal fitness centers to reopen at 50% capacity, while requiring facilities to follow guidelines to reduce virus spread, and frequently sanitize equipment. The bill sponsor, Senator Rick Gunn, added language he claims is an attempt to appease the Governor's concerns over the original restaurant and bar bill. In what he refers to as a "stop gap," the bill contains provisions that would allow the Governor to respond to a spike in COVID-19 and close restaurants, bars, or gyms with a majority vote of the Council of State. Many Democrats objected to this concept, since the Council of State is controlled by a six to four Republican majority. During debate in the Senate, Senator Wiley Nickel claimed the provision shifted power from Governor Cooper and gave it to Lieutenant Governor Dan Forest. The bill is now on the Governor's desk awaiting his decision.

Some businesses have chosen not to wait for legislative action or executive orders to reopen their industry's sector, and have reopened in defiance of the law. Governor Cooper took action this week to declare Ace Speedway in Alamance County an imminent health threat and ordered them to close. Ace Speedway began holding races with full attendance, violating the prohibition on mass gatherings over 25 people. A judge sided in favor of the state on Thursday, granting a temporary restraining order instructing the track to close.

WRAL: Lawmakers send bill to reopen gyms, bars during pandemic to governor

## Patient Visitation Bill

The Senate Health Committee approved a bill this week that would allow patients the right to have one visitor present while they are in the hospital. The bill is in response to hospital safety restrictions that limited visitation in an effort to prevent a COVID-19 outbreak at facilities. The committee heard from members of the public who spoke about their experience while a friend or loved one was hospitalized. The North Carolina Healthcare Association voiced some concerns with the bill, noting that they were relaxing some restrictions, but the bill would remove flexibility in extreme public health situations. Logistical issues were raised by some members around waiting room space and personal protective equipment supplies. The committee adopted an amendment to allow hospitals to deny a visitor access if they did not pass health screening or were COVID-19 positive. The bill has yet to be approved by the full Senate.

WRAL: Senate bill seeks visiting rights for patients in pandemic

## Medicaid Transformation Bill

The Senate began moving a bill through committee dealing with the state's Medicaid Transformation initiative, which moves Medicaid from fee-for-service to a capitated payment system. The state went through a bidding process last year and awarded four statewide prepaid health plan (PHP) contracts and several regional contracts. The program was planned to launch in November of 2019, but has been forced to delay, largely because of issues at DHHS. The new legislation would stipulate that Medicaid Transformation contracts began no later than July 1, 2021. The bill contains language that would require the state to pay \$4 million a month to each PHP if Transformation is delayed again. Some members expressed concern about the department being able to meet the July 2021, deadline and where the funds would come from if they were required to pay the PHP while still paying providers under the existing fee-for-service program to treat low income citizens. The bill also makes other various changes to the Medicaid Transformation program and hospital assessments. Another section included in the bill would abandon a legislative push made last year to move DHHS to Granville County, and appropriates funds for the department to select a new location for its headquarters in Wake County.

## COVID-19 Economic Recovery Grants

The Senate began work on a bill to provide assistance to businesses affected by COVID-19. The bill would establish a grant program for businesses that employ at least 90% of their workforce during the COVID-19 period, has seen at least a 10% decrease in sales, and did not participate in the federal Paycheck Protection Program or the Mainstreet Loan Program. The bill appropriates \$200 million for grants, and grants may be in amounts up to two months average payroll of a business plus 25%. Grants may not exceed \$500,000. The bill also creates the COVID-19 Increased Investment in North Carolina Program to award grants to businesses that increase their investments in North Carolina. The COVID-19 Local Government New Infrastructure Program is also established in the bill, and is to be used to help local governments match and receive federal funds. The bill has passed the Senate Finance Committee and is scheduled to be heard in the Senate Appropriations Committee next week.

## NC DHHS Guidance

The DHHS has released guidance for business to follow when reopening. Below are links for various businesses and establishments.

- [Interim Guidance for Restaurants](#)
  - [Interim Guidance for Large Venue Settings](#)
  - [Interim Guidance for Retail Businesses](#)
  - [What Phase 2 Means for North Carolina](#)
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