



NORTH CAROLINA COMMUNITY COLLEGE SYSTEM

Dr. William S. Carver, II
Interim President

October 14, 2020

MEMORANDUM

TO: Community College Presidents
Business Officers
Chief Academic Officers
Chief Financial Officers
Public Information Officers

FROM: Mary Shuping, Attorney, *Director of Government Relations*

RE: Legislative Report January – September 2020

Following is a report on legislation enacted during the 2020 Session of the General Assembly that impacts or relates to community colleges. The report is divided into four parts:

- I. 2020 Legislative Priorities
 - A. Enacted
 - B. Not Enacted
 - C. Not Enacted/Funded from Another Source
- II. COVID-19 Appropriations and Legislation
 - A. Coronavirus Relief Fund (CRF) Appropriations
 - B. Other COVID Related Legislation
- III. System-wide Legislation
- IV. Legislation Impacting Local Community Colleges & Boards of Trustees

This report also includes links to allocations made by the State Board of Community Colleges (SBCC) from January – September 2020. The General Assembly adjourned sine die on September 2, 2020, and the next regular session will convene on January 13, 2021.

PART I. 2020 LEGISLATIVE PRIORITIES¹

A. ENACTED

Enrollment Growth Funding. [S.L. 2020-64 \(SB 816\)](#) fully funds enrollment growth request of \$41.5 million. These funds are non-recurring and come from the federal Coronavirus Relief Fund (CRF) and must be spent by December 30, 2020 and in accordance with [US Department of the Treasury CRF Guidance](#). (For detail on budget allocations, refer to the Community College System’s [2020-2021 State Aid Allocations and Budget Policies](#).)

Cybersecurity for Community Colleges: Online Training. The System requested \$250,000 for online cybersecurity training for community college employees. The SBCC

¹ These priorities were adopted by the NCACCP and the SBCC prior to the COVID-19 pandemic.

used a portion of the COVID-19 relief appropriation in [S.L. 2020-4](#) (see below) to fund this priority.

B. NOT ENACTED

Salary Increases for Employees. The System requested \$62,000,000 for a 5% salary increase for community college faculty and staff.²

Operation & Maintenance for IT Projects. The System requested \$4,000,000 in recurring funds for the operation and maintenance of IT projects funded in 2019.

Cybersecurity for Community Colleges. The System requested:

- \$1,200,000 in recurring funds for eight regionally based IT security officers to work directly with colleges.
- \$2,000,000 in non-recurring funds for IT security assessments for colleges.

Capital Funding and Equipment. The 2019 Appropriations Act ([HB 966](#)) would have appropriated over \$90 million for capital projects and authorize up to \$400 million over 10 years. HB 966 was vetoed by the Governor, and the General Assembly did not override the veto.

C. NOT ENACTED/FUNDED FROM ANOTHER SOURCE

Financial Aid for Workforce Training. The System requested \$5,000,000 in financial aid from the NC Education Lottery or other non-General Fund sources to provide scholarships for students enrolling in short-term workforce training. This request was not funded by the General Assembly. However, the Governor provided \$15,000,000 from the Governor's Emergency Education Relief (GEER) Fund from the federal CARES Act for scholarships and communication/program success. Scholarships are for community college students pursuing high-demand workforce training programs leading to a State or industry recognized credential in the following ten pathways: automotive; aircraft maintenance; construction; criminal justice; EMS; healthcare; industrial/manufacturing; IT; transportation; and, fire and rescue services. Colleges also have flexibility to add additional pathways based on local workforce needs.³ These funds are available through September 30, 2022.

PART II. COVID-19 APPROPRIATIONS & LEGISLATION

A. CORONAVIRUS RELIEF FUND (CRF) APPROPRIATIONS⁴

Use of Funds. Pursuant to the federal CARES Act -- Coronavirus Relief Fund ([P.L. 116-136, Sec. 5001](#)), the CRF funds appropriated by the General Assembly must be expended no later than December 30, 2020 and must comply with [US Department of the Treasury CRF Guidance](#) on permissible uses of Coronavirus Relief Funds.

² [HB 231](#) would have provided the equivalent of a 2% salary increase for community college employees (along with increases for UNC System employees and a retiree COLA). However, the Governor [vetoed](#) HB 231, and the General Assembly did not override the veto. [SB 354](#) would have provided an additional 2% salary increase for community college employees contingent upon HB 966 being enacted.

³ For SBCC allocations of GEER Funds, see [Allocation for Governor's Emergency Education Relief \(GEER\) Scholarship](#).

⁴ This Part includes only appropriations of federal Coronavirus Relief Funds (CRF) made by the General Assembly and does not include federal Cares Act Higher Education Emergency Relief Funds (HEERF) allocated directly to community colleges by the US Department of Education.

Reallocation of Funds. [S.L. 2020-97 \(HB 1105; Sec. 1.9\)](#) authorizes the reallocation of any CRF appropriations by the NC Pandemic Recovery Office (NCPRO), in consultation with the Office of State Budget and Management (OSBM) if all of the following conditions are met: 1) funds remain unexpended on November 30, 2020; 2) there is not a reasonable expectation that the funds will be expended before the deadline established by federal law or guidance; and, 3) any reallocation must be to support COVID-19 related activities that were authorized and received an appropriation of CRF funds. Reallocated funds cannot be used for any new activity, purpose, or program.

Audit Requirement. In addition to any federal audits, [S.L. 2020-4 \(HB 1043; Sec. 1.8\)](#) directs the State Auditor to conduct a preliminary financial audit and a final performance audit of the CRF expenditures no later than March 1, 2021.

Appropriations.

- **Community College System – May 2020⁵.** [S.L. 2020-4 \(HB 1043; Sec. 3.3\(19\)\)](#) appropriates \$25,000,000 in one-time federal COVID-19 Relief Funds (CRF) to the Community College System Office to respond to COVID-19 impacts to:
 - Enhance online learning capacity and cover increased costs associated with moving to online instruction for students.
 - Cover necessary expenses for resources and supports for faculty and staff.
 - Provide Small Business Center counselors.
 - Cover expenses for expanded demands on IT.
 - Provide facility sanitation and other necessary eligible expenses for services for ongoing campus operations.
- **Community College System – September 2020⁶.** [S.L. 2020-97 \(HB 1105; Sec. 1.2 \(83\) & \(93\)\)](#) appropriates the following COVID-19 Relief Funds (CRF) to the Community College System Office for the following:
 - \$5,000,000 to purchase PPE and testing. All PPE must meet applicable CDC guidelines.
 - \$5,000,000 for equipment costs for healthcare workforce and first responder programs.
- **Individual Community Colleges.** [S.L. 2020-97 \(HB 1105\)](#) appropriates the following:

⁵ For SBCC allocations of federal CRF funds appropriated by the General Assembly in S.L. 2020-4, see the following State Board items: [Allocation for SBC Counselors](#); [Contract for College Cybersecurity Awareness](#); [Allocation for College Career Counselors and Academic Advisors](#); [Allocation for SBC Counselors](#); [Allocation for Virtual Student Tutoring](#); [Contract for Student Assistance Program](#); [Allocation for Equipment to Test PPE](#); [Allocation for Enhancing Online Learning](#); [Allocation to Support Rural College Broadband Access](#); [Moodle Hosting Services](#); (Note: In addition to the CRF appropriated by the General Assembly, the Governor provided additional CRF of \$3,300,000 from OSBM's Continuity of Operations (COOP) funds appropriated in [S.L. 2020-32](#) to the Community College System and the SBCC made the following allocations: [Allocation to Support Online Testing \(also includes S.L. 2020-4 funds\)](#); [Allocation to Support Rural College Broadband Access](#); and, [Contract for Statewide Awareness Campaign](#))

⁶ For SBCC allocations of federal CRF funds appropriated by the General Assembly in [S.L. 2020-97](#), see the following State Board items: [Allocation for PPE & COVID-19 Testing](#); and, [Allocation for Health Care and First Responder Program Equipment](#).

- **Catawba Valley CC & Gaston CC.** [Section 94](#) appropriates \$14,300,000 for the PPE Initiative partnership between the CVCC-Manufacturing Solutions Center and Gaston College-Textile Tech Center, Conover, Gaston County, and the private sector to create a launch pad for prototyping and testing reusable PPE products for entrepreneurs and existing manufacturers. The Office of State Budget & Management (OSBM) will allocate the funds as follows:
 - \$9,000,000 to the City of Conover to be allocated for:
 - \$7,250,000 to construct a facility to house testing labs, rapid prototyping, and a textile sourcing library.
 - \$1,250,000 for a clean-room upfit at the CVCC-MS.
 - \$500,000 for equipment, materials, and logistics for a rapid prototyping pilot line to create product and train a workforce for US PPE manufacturers.
 - \$5,300,000 to Gaston County to construct an Incubator and Extrusion Center for Advanced Fibers at the Gaston College Textile Tech Center.
- **Cleveland Community College.** [Section 95](#) appropriates \$1,000,000 for PPE and costs for equipment and training related to COVID-19.
- **Sampson Community College.** [Section 80](#) appropriates \$250,000 to the Department of Commerce to be allocated to Sampson Community College to address impacts related to COVID-19.

B. COVID-19 RELATED LEGISLATION

Apprenticeships. [S.L. 2020-3 \(SB 704, Sec. 2.27\)](#) provides that a youth apprentice who is unable to continue participation in a pre-apprenticeship or apprenticeship program due to COVID-19 may continue to receive a tuition waiver for community college courses in the student's documented plan of study until December 31, 2020. The intent of this waiver is to allow those youth apprentices who were laid off from their apprenticeship jobs to be able to continue their courses tuition-free until the end of the year.

High School Seniors/Numeric Grades (Union County Only). [S.L. 2020-13 \(HB 1199\)](#) provides that notwithstanding General Statutes or State Board of Education Policy, for spring courses taken during the 2019-2020 school year, the Union County Board of Education has the authority to allow graduating seniors to choose either a numeric grade or a pass/withdrawal, as appropriate.

Liability Protections. *(For additional detail, see [CC20-051](#))*

- **Tuition & Fees for Spring 2020 Semester.** [S.L. 2020-70 \(SB 208\)](#) provides that community colleges are immune from claims regarding tuition and fees if all of the following apply: 1) the claim arises out of tuition and fees paid for the spring 2020 semester; 2) the claim alleges losses or damages arising from an act or omission by the college during or in response to COVID-19 or Executive Orders [116](#) or [121](#); 3) the college's act or omission was reasonably related to protecting public health, safety, or welfare in response to Executive Order or CDC guidance; and, 4) the college offered remote learning options during spring 2020 that allowed students to complete

coursework. The protection applies to acts or omissions occurring on or after March 10 through June 1, 2020.

- **Transmission of COVID-19**

- **Liability Safe Harbor.** [S.L. 2020-89 \(HB 118\)](#) provides that community colleges are immune from claims alleging a college's act or omission resulted in contraction of COVID-19. This immunity includes violations of the notice requirement or an individual's failure to comply with the rules, policies, or guidelines contained in the notice. Immunity does not apply in cases of gross negligence, willful or wanton conduct or intentional wrongdoing. Colleges are also required to provide notices on steps to reduce transmission risk. The protection applies to claims arising on or after July 2, 2020 through 180 days after rescission of Executive Order [116](#).
- **"Essential Business Immunity".** [S.L. 2020-3 \(SB 704, Sec. 4.14\)](#) provides that "essential businesses" (including educational institutions) are immune from claims from customers or employees for injuries or death alleged to have been caused as a result of the customer or employee contracting COVID-19. Immunity does not apply to gross negligence, reckless misconduct, or intentional infliction of harm. The immunity applies to claims filed on or after March 27, 2020 and until Executive Order [116](#) expires or is rescinded.

- **Donated PPE & Equipment.** [S.L. 2020-3 \(SB 704, Sec. 4.14\)](#) provides that educational institutions that manufacture, produce or distribute PPE, testing equipment or ventilators, or process COVID-19 test results are immune from claims from any customer, user, or consumer for injuries or death alleged to have been caused as a result of the COVID-19 pandemic or while doing business with the educational institution. There is no immunity for gross negligence, reckless misconduct, or intentional infliction of harm. This protection applies to claims filed on or after March 27, 2020 and until Executive Order [116](#) expires or is rescinded.

Open Meetings During State of Emergency. [S.L. 2020-3 \(SB 704, Sec. 4.31\)](#) enacts the Emergency Declaration Open Meetings Statute which continues to require compliance with the Open Meetings Law, but enacts special provisions for remote meetings, including:

- Notice and information on how the public can access the remote meeting in real time.
- If the member of the public body (e.g., board member) cannot be seen by the public s/he must identify himself or herself: 1) upon roll-call; 2) prior to participating in deliberations, etc.; and, 3) prior to voting.
- All documents to be considered must be provided to the members of the public body.
- Members of the public body must be able to hear what others are saying and to be heard by others.
- Votes must be roll call.
- Chats, instant messages, texts, or other written communications between members of the board regarding transaction of public business during the remote meeting are public record.
- Remote meetings must be simultaneously streamed live online so that simultaneous live audio, and video if any, of the meeting is available to the public. **However, remote**

meetings may be conducted by teleconference so long as the public can dial in or stream the audio live. Public access is not required during a closed session.

Purchasing Flexibility. [S.L. 2020-97 \(HB 1105, Sec. 1.7\)](#) allows colleges to obtain in the open market necessary supplies, materials, equipment, printing or services to address the COVID-19 pandemic, including purchases that exceed benchmarks established in [G.S. 143-53.1](#) and [G.S. 115D-58.14](#) without the approval of the Department of Administration. A report on these expenditures shall be made a matter of record, and if the expenditure exceeds the benchmark, a report must be made to DOA's Division of Purchase and Contract. This provision applies to all contracts entered into between September 4, 2020 and December 30, 2020.

School Calendar for the 2020-2021 School Year. [S.L. 2020-3 \(SB 704, Sec. 2.11\(b\)\)](#) sets August 17, 2020 as the opening date for public schools and the closing date as no later than June 11, 2021.

State Employees & Retirees

- **Retirees Return to Work.** [S.L. 2020-80 \(HB 1023, Sec. 4.2A\)](#) suspends the six-month waiting period for State retirees who retired on or after October 1, 2019 but before April 1, 2020 and only requires a one month separation from State service if the retiree is returning to a position needed due to COVID-19. [S.L. 2020-74 \(HB 308, Sec. 10\)](#) sets August 31, 2020 as the expiration date.
- **State Health Plan Premium & Debt Payment Deferral.** [S.L. 2020-3 \(SB 704, Sec. 4.21\)](#) allows the deferral of premium or debt payments upon a declaration of a state of disaster or emergency. Any deferral must be approved by the State Health Plan Board of Trustees.

Workforce (including occupational licensing boards)

- **Affirmations of Actions Taken in Response to COVID-19.** [S.L. 2020-3 \(SB 704, Sec. 3B.1\)](#) supports actions taken by various healthcare licensing boards, including the NC Board of Nursing, and the State's teaching institutions for healthcare providers, in their efforts to address workforce supply challenges presented by the pandemic. The General Assembly also expresses support for initiatives that provide ongoing flexibility to teaching institutions to ensure students seeking degrees in health care professions can complete necessary clinical hours.
- **Board of Dental Examiners Waiver Authority.** [S.L. 2020-3 \(SB 704, Sec. 3B.1\)](#) authorizes the Board of Dental Examiners to waive requirements of the Dental Practice Act and the Dental Hygiene Act if the Governor declares a state of emergency or a county or municipality enacts certain emergency ordinances. *Note: This authority is permanent and applies beyond the COVID-19 pandemic.*
- **Pandemic Healthcare Workforce Study.** [S.L. 2020-3 \(SB 704, Sec. 3D.7\)](#) directs NC AHEC to study issues that impact healthcare delivery and workforce during a pandemic, including the adequacy of the healthcare workforce supply and training, and the impact of COVID-19 on current health sciences students and implications for future students contemplating a career in health sciences. The report and any findings and recommendations are due to the House Select Committee on COVID-19, Healthcare Working Group, on or before November 15, 2020.
- **Workforce Development Grants-Dept. of Agriculture.** [S.L. 2020-80 \(HB 1023, Sec. 4.2A\)](#) appropriates funds for NC Department of Agriculture to provide funding for several types of grants including workforce development grants to meat processing facilities. An

eligible meat processing facility that is experiencing slowdowns or has limited capacity due to COVID-19 may apply for a workforce development grant to be used for educational and workforce training provided by either the facility or by an institution of higher education.

PART III. SYSTEM-WIDE LEGISLATION

Career & College Promise (CCP) & Relevant K-12 Legislation

- **CIHS Funding/Moratorium/Cap.** [S.L. 2020-64 \(SB 816, Sec. 4\)](#) does the following:
 - Places a moratorium on new CIHS requesting State funding for the 2021-2022 school year.
 - Provides that the SBOE may only conditionally approve up to three applications for CIHS that request additional funds and allows the SBOE to prioritize the conditional approvals.
 - Funds the following CIHS for 1 year (NR funds): The Center for Industry, Technology, and Innovation (Nash CC); Marine Sciences and Technologies Early College High School (Carteret CC); Roanoke Rapids Early College High School (Halifax CC); Southeast Area Technical High School (Cape Fear CC); Halifax Early College High School (Halifax CC); Stanly STEM Early College High School (Stanly CC); and, Gaston Early College of Medical Sciences (Gaston College).
 - Authorizes Halifax Early College High School and Stanly Stem Early College High School to operate during the 2019-2020 academic year.
 - Requires DPI to report on funding for CIHS by development tier area location by January 15, 2021, including any adjustments to funding that would be required based on the tier designation.
- **CTE Foundation to Administer Grants.** [S.L. 2020-78 \(SB 681, Sec. 2.2\)](#) authorizes the NC Career and Technical Education Foundation, Inc. to administer certain grants from the Education and Workforce Education Commission.
- **“Year-Round School” Defined.** [S.L. 2020-81 \(SB 212, Sec. 10\)](#) provides that beginning with the 2021-2022 school year, a “year-round school” is defined as a school with single- or multi-track instructional calendar to provide instruction throughout the entire school year (July 1 - June 30) according to one of three plans:
 1. Students are divided into four groups and each group must be in school for assigned and staggered quarters each school calendar year.
 2. Students are scheduled to attend 45 instructional days followed by 15 days of vacation repeated throughout the school calendar year.
 3. The school calendar year is divided into five, nine-week sessions of classes and each student is required to attend four assigned and staggered sessions out of the five nine-week sessions to complete the student’s instructional year.

College Transfer

- **Accelerated Degree Completion Study by UNC.** [S.L. 2020-56 \(HB 1096, Part VIII-A\)](#) directs the UNC-BOG to study the feasibility of offering accelerated undergraduate degree programs and directs the UNC-BOG to consider several factors, including the

importance of credit transfers from community college courses. The Board must report to the Joint Legislative Education Oversight Committee by March 1, 2021.

Credit for Prior Learning

- **Database of Military Credit Equivalencies.** [S.L. 2020-78 \(SB 681, Sec. 3.2\)](#) directs the UNC System, in collaboration with the Community College System, through the Military Credit Advisory Council, to create a searchable database of military credit equivalencies.

Prison/Jail Instruction

- **Associate Degree/State Prisons.** [S.L. 2020-54 \(HB 463\)](#) authorizes community colleges to offer the Associate of Arts, Associate of Science, and Associate of General Education degrees in State prisons, effective July 1, 2020.

Salaries & Benefits

- **Administrative Costs of NC Public School Teachers & Professional Educators' Investment Plan.** [S.L. 2020-48 \(SB 719, Sec. 1.15\)](#) provides that the administrative costs of the NC Public School Teachers & Professional Educators' Investment Plan sponsored by the State Treasurer may be charged to members or deducted from members' accounts. Local boards of trustees are authorized to offer this plan under [G.S. 115D-25.4](#).
- **Employer Contribution Rates**
 - **TSERS Rates.** [S.L. 2020-41 \(HB 1218, Sec. 3.15\(c\)\)](#) sets the TSER employer contribution rate at 21.68%, effective July 1, 2020.
 - **State Health Plan Rates.** [S.L. 2020-45 \(SB 818, Sec. 8.1\(c\)\)](#) sets the annual contribution rates for the State Health Plan at \$4,916 for Medicare-eligible employees and \$6,326 for non-Medicare-eligible employees, effective July 1, 2020.
- **Pension Spiking Reports.** [S.L. 2020-48 \(SB 719, Sec. 1.16\(c\)\)](#) provides that pension spiking reports provided to employers and governing boards are not a public record, and the report and any information contained in the report, must be treated as confidential.
- **Reemployment Overpayments.** [S.L. 2020-29 \(SB 379, Sec. 7\)](#) allows the Retirement System to require an employing agency pay a portion of return to work overpayments assessed to a retiree if actions by the employer are found to have partially caused the overpayment. Effective July 1, 2021, the Retirement System may require the employer to: 1) pay penalty of 10% of the compensation of the unreported re-employed beneficiaries (minimum penalty of \$25); 2) reimburse the Retirement System for any retirement allowance paid to the beneficiary during a period when the allowance would have been suspended had the required report been received; or, 3) pay any amount that the beneficiary would have been required to pay to the Retirement System had the required report been received.
- **Service Purchase.** [S.L. 2020-29 \(SB 379, Sec. 1.\(a\)\)](#) provides that for withdrawn or prior service credit purchased on or after January 1, 2022, the member must be in service when purchasing the service credit, and the creditable service purchased may not exceed five years. The cost of purchasing withdrawn service is full actuarial cost. Also, amends the law on credit for prior temporary State employment to limit service credit purchased on or before December 31, 2021.

Sales Tax

- **Various Sales Tax Changes/Online Instruction.** [S.L. 2020-6 \(HB 1079, Sec. 3\)](#) clarifies that the delivery of instruction or training by a K-12 school or institution of higher education to an enrolled student is not subject to sales tax. The effective date is retroactive to October 1, 2019.

PART IV. LEGISLATION IMPACTING LOCAL COMMUNITY COLLEGES & BOARDS OF TRUSTEES

A-B Tech Board of Trustees. [S.L. 2020-20 \(HB 1151\)](#) allows the Asheville City Board of Education and the Buncombe County Board of Education to each appoint two trustees (rather than jointly electing them) and adds an additional trustee appointed by the Madison County Board of Education for a term beginning July 1, 2021.

A-B Tech/Buncombe Co. ¼ Cent Sales Tax Use Restriction. [S.L. 2020-9 \(SB 267\)](#) memorializes a MOU between A-B Tech and Buncombe County regarding the use of the ¼ cent sales tax net proceeds.

Cleveland Community College Board of Trustees Appointment.⁷ [S.L. 2020-39 \(SB 866\)](#) appointed William Turpish to the Cleveland Community College Board of Trustees effective July 1, 2020 and expiring June 30, 2024.

Gaston College – Carolina Cyber Network Funding. [S.L. 2020-81 \(SB 212, Sec. 9.\(b\)\(2\)\)](#) appropriates \$3,250,000 from the Enterprise Security and Risk Management Office to the Department of Information Technology for allocation to Gaston College to found the Carolina Cyber Network. Gaston College may use up to \$250,000 for administration costs.

⁷ [S.L. 2018-5 \(HB 12\)](#) authorized the General Assembly to appoint four trustees to the Cleveland Community College Board of Trustees, two upon recommendation of the Speaker of the House and two upon recommendation of the President Pro Tempore of the Senate. The Cleveland Community College Board of Trustees is the only board of trustees to which the General Assembly makes appointments.