

The General Assembly

The 2020 short session convened on April 28, aligning more with the early start in 2016 instead of the typical mid-May convening. This year was unprecedented—there were numerous changes in procedure and schedule in response to the COVID-19 pandemic, which reached North Carolina in March. Upon convening the session, work in the first few weeks of session focused on COVID related legislation only; legislators then took a break and reconvened to carry out the remainder of the session. The session adjourned on September 3; despite the earlier starting date and late adjournment, the total number of legislative days is in line with recent short sessions. The Governor vetoed 11 bills, none of which were overridden, and allowed one bill to go into law without his signature.

This chapter provides an overview of the 2020 session, including major legislation enacted. Please note that School of Government (SOG) faculty members and experts are writing summaries of selected legislation of interest to state and local government officials. These summaries are available on the SOG’s legislative reporting service website. The summaries are available directly at: <https://lrs.sog.unc.edu/lrs/legsumms/2020>; the site will be updated as new summaries are available.

Overview of the 2020 Regular Session

Article II, Section 11, of the North Carolina Constitution provides for a biennial session of the General Assembly that convenes in every odd-numbered year. Until 1973 the General Assembly held a single regular session, convening in each odd-numbered year, meeting several months, and then adjourning sine die. Prior to 1974, legislative sessions in even-numbered years of the biennium were extra sessions and they were rare and of short duration.

Beginning with the 1973-74 biennium, the General Assembly began holding annual sessions. The General Assembly convenes in January of odd-numbered years. In these “long sessions,” which generally run through midsummer, a biennial budget is adopted and any legislative business may be considered. In even-numbered years the General Assembly convenes for a “short session,” which generally runs from May through July or August. When the General Assembly adjourned in 2019, the adjournment resolution convened the short session in April instead of the typical May start date. In the short session the General Assembly considers budget adjustments for the second year of the biennium and generally deals with bills that have passed one house and a limited number of additional noncontroversial matters. This year was notably different; without a budget bill being passed in 2019, a comprehensive budget bill was not enacted during the short session, and the year took an unexpected focus on COVID-19 relief. Legally the short session is a continuation of the long session.

The 2020 short session convened on April 28 and adjourned September 3, with two breaks held during that time. The 2019 adjournment resolution, ([Ch. Res. 2020-1](#); SJR 703, as amended by [Ch. Res. 2020-2](#); HJR 1152), limited the matters that may be considered during the short session to the following:

- (1) bills affecting the budget, as described, provided the bill is submitted to the Bill Drafting Division by May 1, 2020, and introduced in the House or filed for introduction in the Senate by May 14, 2020;

- (2) bills primarily affecting any State or local pension or retirement system, provided the bill is submitted to the Bill Drafting Division by May 20, 2020, and introduced in the House or filed for introduction in the Senate by May 26, 2020;
- (3) bills implementing the recommendations of study committees or commissions, authorities, and statutory committees or commissions authorized or directed to report to the 2020 Regular Session; the General Statutes Commission, Courts Commission, or any committee or commission created under GS Chapter 120 that is authorized or directed to report to the General Assembly; the House Ethics Committee; select committees; or the Joint Legislative Ethic Committee, with bills required to be submitted to the Bill Drafting Division by May 5, 2020, and introduced in the House or filed for introduction in the Senate by May 13, 2020;
- (4) local bills submitted to the Bill Drafting Division by May 5, 2020, and introduced in the House or filed for introduction in the Senate by May 19, 2020, accompanied by a certificate stating that no public hearing will be required or requested, the bill is noncontroversial, and that the bill is approved for introduction by each Representative and Senator whose district includes the area to which the bill applies;
- (5) bills amending the NC Constitution and making changes to implement proposed constitutional amendments;
- (6) bills and resolutions introduced in 2019 that passed the crossover deadline and were not disposed of in the other house by tabling, unfavorable committee report, indefinite postponement, or failure to pass any reading and which do not violate the receiving house's rules;
- (7) selection, appointment, or confirmation of state board and commission members by the General Assembly;
- (8) action on gubernatorial nominations or appointments;
- (9) any matter authorized by joint resolution passed by two-thirds majority of those present and voting;
- (10) a joint resolution authorizing the introduction of a bill described in (8);
- (11) joint, House, or Senate resolutions authorized under Senate Rule 40.1 or House Rule 31;
- (12) bills vetoed by the Governor;
- (13) bills responding to litigation challenging the legality of legislative enactments;
- (14) election law bills;
- (15) bills to disapprove rules under GS 150B-21.3 [effective date of rules provision under Administrative Procedure Act];
- (16) bills providing for impeachment under Article IV of the NC Constitution or GS Chapter 123;
- (17) bills revising or establishing federal, State, or local electoral districts; and
- (18) a joint resolution adjourning the 2019 Regular Session, sine die.

A list of the bills that made it through the crossover deadline can be found [here](#) on the North Carolina General Assembly's website.

The adjournment resolution also authorized the Speaker of the House or the President Pro Tempore of the Senate to allow committees or subcommittees to meet when the General Assembly was not in session to review matters related to the 2019-21 budget, prepare reports, and consider other matters as appropriate. Conference committees were also allowed to meet with approval from the Speaker or President Pro Tempore.

Statistical Comparison

The 2020 short session convened on April 28 and adjourned September 3. Although the April start date was earlier than the typical short session convening and the session lasted into the fall, two breaks held during the session brought the total number of legislative days (44 in the Senate and 42 in the House) in line with those from the 2016 and 2018 sessions. A total of 374 bills were introduced; while this is an increase over the number of bills filed in 2018 (which was the lowest number filed in the last five short sessions), the number is only slightly less than those filed in

2016. Over the entire 2019-20 biennium, including reconvened sessions, a total 2,109 bills were filed. Of those filed bills, only 376, or 18% were enacted into law. Governor Cooper vetoed 11 bills, down slightly from the 14 vetoed in 2019.

Table 1-1 compares the 2020 session with other even-year sessions of the past ten years.

Table 1-1. Statistical Comparisons of Recent Even-Year Sessions

	2010	2012	2014	2016	2018*	2020
Date convened	May 12	May 16	May 14	April 25	May 16	April 28
Date adjourned	July 10	July 3	August 20	July 1	December 27	September 3
Senate legislative days	35	29	56	44	46	44
House legislative days	36	29	55	41	48	42
Senate bills introduced	354	165	157	181	122	170
House bills introduced	426	294	253	206	193	204
Total bills introduced	780	459	410	387	315	374
Session Laws Enacted	227	203	130	144	144	102
Vetoes	0	3	1	1	13	11

* The 2018 totals reflect actions taken during 2018 session and the 2018 reconvened session that began in November; it does not include the 2018 extra sessions.

The Legislative Institution

Membership Changes

The 2020 session marked the final year for many legislators with several members of both chambers not planning on returning in 2021. In the Senate, 11 senators did not file for reelection, while 15 members of the House did not file for reelection (See <https://www.wunc.org/post/2020-north-carolina-election-races-watch-state-senate>; <https://www.wunc.org/post/2020-north-carolina-election-races-watch-state-house>). There were several changes in membership during the 2020 session.

The House of Representatives underwent several changes in membership in 2020, including two due to the untimely passing of legislators due to cancer. Representative MaryAnn Black of Durham County passed away in March. Vernetta Alston was named as her replacement in April. Representative Debra Conrad, representing Forsyth County, resigned in July. Wes Schollander was named as her replacement in August. Representative Jean Farmer-Butterfield of Wilson County resigned in July. Linda Cooper-Suggs was named as her replacement later that month. Representative Linda Johnson of Cabarrus County passed away in February. Kristin Baker was named to fill her seat in March. Representative David Lewis of Harnett County, who was the House Rules Chairman, resigned in August and pleaded guilty to federal charges of making a false statement to a bank and failing to file a 2018 tax return¹. Howard Penny, Jr. was named as his replacement in August and was also listed as Lewis's replacement on the November ballot. Representative Chuck McGrady of Henderson County, who had already decided not to seek reelection, resigned in October. His replacement, appointed later in October, was former representative Timothy Moffitt.

¹ <https://www.wral.com/top-nc-lawmaker-resigns-pleads-guilty-to-federal-charges/19245383/>

There were three changes in Senators during the 2020 session. Senator Michaux, who was appointed to serve Durham County as a replacement for Senator McKissick when he resigned in January to serve on the NC Utilities Commission, resigned in March. Natalie S. Murdock was named as his replacement in April, just before the start of the short session. Senator Tillman, serving Guilford and Randolph counties, resigned in June despite winning his primary election. David W. Craven, Jr. was appointed as his replacement in July and he was also listed as Tillman's replacement on the November ballot. Senator Wells, who represented Alexander and Catawba counties resigned in July. Dean Proctor was named as his replacement in August.

COVID-19 Related Building Procedures

The 2020 session began shortly after the outbreak of the COVID-19 pandemic reached North Carolina. In the face of this public health crisis, the General Assembly took steps to protect public health for employees and visitors to the building while the House of Representative passed additional rules to provide members with flexibility in meeting and voting.

Measures taken to protect public health included enhanced cleaning of rooms and common spaces, using electrostatic cleaners, and limiting building capacity to 50%. Visitors were also required to undergo temperature screenings, which evolved over time to become screening via thermal cameras.

In March, interim committee meetings were delayed until April 1. When interim committees resumed meeting, they primarily met remotely using WebEx technology. The House approved temporary rules that allowed members to work remotely or distance themselves during the session. Changes to the rules found in [House Resolution 1044](#) include, but are not limited to, the following. The resolution extended the time allowed to vote to 40 minutes and allowed a member who was not present to designate the Majority or Minority Leader to cast the member's vote so long as, (1) a voting designation is filed identifying the designee and a start and stop date of the designation, (2) the Leaders cast designated votes after at least 61 members have voted in the chamber when the question is put, and (3) at least three hours have elapsed from the time the bill was placed on the calendar. The House allowed committees to continue to meet remotely so long as (1) each member was able to communicate in real time with all other members by either in-person communication, remote communication using devices or programs that transmit audio or audio and video, or both; (2) all documents considered by the committee were provided to members; and (3) the committee otherwise complied with statutory requirements concerning public access to electronic meetings. The House also closed the House galleries to the public and instead allowed members and reporters to be seated in designated areas of the gallery in order to facilitate social distancing. These rules were set to expire upon the earlier of May 31, 2020, or the submission of an objection under new Rule 61.3, which required a modification to the 2019 House Permanent Rules, as described in this act, to expire at midnight on any day a written objection is submitted by the Majority Leader or the Minority Leader. These temporary rules were extended and modified until adjournment by the passage of [House Resolution 1230](#), which was adopted on June 3. House Resolution 1230 readopted House Resolution 1044 with a number of changes, a few of which are discussed here. The time allowed for voting was decreased from 40 to 30 minutes. The requirement that three hours have passed from the time the bill was placed on the calendar, was removed from the requirements to be met before a member may designate the Majority or Minority Leader to vote for the member. The Resolution no longer allowed a resolution or bill to be placed on the calendar without being referred by the Speaker to a committee and on the same legislative day of its introduction or receipt from the Senate; provided, that the bill may not be voted on until at least three hours have elapsed from the time it is placed on the calendar and the time the question is put. The Resolution also deleted the rule allowing a bill reported favorably by a committee or received for concurrence to be placed on the favorable calendar on the same day it is reported. The resolution also removed the provision under which a proposed committee substitute was not required to be distributed electronically to committee members on the preceding calendar day in order to be considered by the committee. The gallery was once again opened to the public. The Resolution also amended the provisions under which an objection to the rules could be filed, including allowing the Speaker to file an objection.

Study Committees and Commissions

The 2020 session ended without a studies bill, but various legislation required pilot programs or studies to be performed by already existing committees, commissions, or departments.

[S.L. 2020-47](#) (House Bill 511, North Carolina First Step Act), requires the Department of Information Technology, Government Data Analytics Center, to identify the criminal justice data elements related to individuals who have been charged with infractions or criminal offenses that are currently being collected and maintained in order to (1) identify gaps in data for use by law enforcement, judicial officials, policymakers, and other stakeholders related to the processing, detention, and adjudication of individuals charged with infractions or criminal offenses, and (2) identify solutions for improving availability and accessibility of data available to policymakers to inform public policy related to individuals who have been charged with infractions or criminal offenses. The study is required to examine (1) the data elements currently being collected concerning individuals charged with or incarcerated for criminal offenses, and the current or planned systems for collecting, recording, maintaining, and searching these data elements; (2) the data elements currently being collected by the courts concerning individuals who have been charged with infractions or criminal offenses; (3) steps that would be necessary to create a statewide program to integrate data from courts, jails, and prison data systems; and (4) a review of best practices from other states. A report is required to the Joint Legislative Oversight Committee on Information Technology and the Joint Legislative Oversight Committee on Justice and Public Safety by December 1, 2021.

[S.L. 2020-90](#) (House Bill 902, P&C Changes/Glob. Transp./Prison Pilot), includes funding to develop and administer a Prison Software Management Pilot Program (Pilot Program) at Bertie Correctional Institution (BCI) and Pasquotank Correctional Institution (PCI). The purpose of the program is to upgrade software infrastructure and equipment for the State Prison Management Information Systems, and deploy a mobile inmate tracking system. The pilot is required to begin operating by October 15, 2020. The Department of Public Safety, Division of Adult Correction and Juvenile Justice, is required to give a status update to the Senate Select Committee on Prison Safety by January 8, 2021 and a final report by April 1, 2021.

[S.L. 2020-79](#) (House Bill 1087, Water/Wastewater Public Enterprise Reform), includes a number of studies. The act requires the Department of Environmental Quality (DEQ) to study statutes and rules governing subbasin transfers and make recommendations as to whether they should be amended. Specifically, the study is to examine whether transfers of water between subbasins within the same major river basin should continue to be required to comply with all of the same requirements as transfers of water between major river basins. DEQ is required to report its findings and recommendations to the Environmental Review Commission by January 15, 2021.

The act also requires the Department of State Treasurer to study and make recommendations on the feasibility of authorizing historical charters for local government that have become, or are on the brink of becoming, defunct. The act requires specifically examining if these historical charters are needed, the impact of these charters on bond ratings, and the consequences of historical charters. A report to the General Assembly is required by January 15, 2021.

[S.L. 2020-56](#) (House Bill 1096, UNC Omnibus Changes/UNC Lab School Funds) requires the UNC Board of Governors to study offering accelerated undergraduate degree programs at constituent institutions. The program is required to be consistent with the access and affordability goals of the Strategic Plan for The University of North Carolina. The act sets out nine issues that are to be considered in the study. The Board of Governors is required to report on the study and make recommendations to the Joint Legislative Education Oversight Committee by March 1, 2021.

[S.L. 2020-18](#) (Senate Bill 315, North Carolina Farm Act of 2019-20) addresses a number of issues related to agriculture in the state. The act requires the Agriculture and Forestry Awareness Study Commission to study policy options available to support the state's dairy industry including several specified topics such as the creation of a tax credit for milk producers and the creation of a fund to make grants or loans to dairy operations for infrastructure improvements. A report on the

Commission's findings and recommendations is due to the General Assembly by December 1, 2021.

[S.L. 2020-16](#) (Senate Bill 390, Dupont State Forest-Financial Study), requires the Department of Agriculture and Consumer Services (DACS) to study the DuPont State Recreational Forest's (Forest) finances and operating model and requires the creation of a plan for a sustainable income stream. The act sets out four components that must be included in the study and plan, including an entry fee that will favor North Carolina citizens and require out-of-state visitors to contribute towards the sustainable operation of the Forest in proportion to their use of facilities and amenities funded by State taxpayers, and capital projects and operational changes needed to improve the safety of visitors to the Forest that currently park on the roadside. DACS is required to report its findings and recommendations to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources and the Fiscal Research Division by August 1, 2021.

[S.L. 2020-78](#) (Senate Bill 681, Agency Policy Directives/2019-2020) includes a number of provisions that were originally contained in the vetoed 2019 Appropriations Act. First, the act requires the Department of Natural and Cultural Resources to study and report on the marketing of the North Carolina Zoological Park, the North Carolina Aquariums, and the North Carolina State Museum of Natural Sciences. The act specifies information that must be included in the report for the 2018-19 and 2019-20 fiscal years. A report is required to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources and the Fiscal Research Division no later than October 15, 2020.

Second, the act requires the Department of Administration to submit a detailed report on the replacement of the State's E-Procurement System to include specified updates, including activities undertaken to date to update the System and itemized expenditures to date and itemized costs anticipated to complete project. The report must be submitted by October 1, 2020, to the Joint Legislative Oversight Committee on General Government and the Joint Legislative Oversight Committee on Information Technology.

Third, the act requires the Office of State Budget and Management (OSBM) to report by January 15, 2021, to the Joint Legislative Oversight Committee on General Government, the Joint Legislative Oversight Committee on Health and Human Services, and the Fiscal Research Division a plan to conduct a benefit-cost analysis of all Department of Health and Human Services (DHHS) programs funded by State appropriations. The plan is required to include an inventory of all DHHS programs funded by State appropriations and an estimate of the cost to conduct the benefit-cost analysis.

Finally, the act requires OSBM, in conjunction with State agencies, to report on the use of lapsed salary funds at the end of each fiscal year. The act specifies information that state agencies must provide to OSBM, including the total expenditure of lapsed salaries by purpose and the legal authorization to expend lapsed salary funds. OSBM is required to report annually by October 1 to the Joint Legislative Oversight Committees on Health and Human Services, Education, Justice and Public Safety, Transportation, Information Technology, General Government, and Agriculture and Natural and Economic Resources and the Fiscal Research Division.

[S.L. 2020-3](#) (S 704, COVID-19 Recovery Act), includes several studies. The first study in the act requires the North Carolina Area Health Education Center (NC AHEC) program to study issues impacting health care delivery and the health care workforce during a pandemic with a focus on the impact of the COVID-19 pandemic, on issues that need to be addressed in the aftermath, and on plans that should be implemented in the event of a future health crisis. The study must include impact from many named stakeholders in the fields of higher education and health care. The act specifies 15 issues that must be examined in the study, including impact of the COVID-19 pandemic on communities with preexisting workforce shortages, impact of personal protective equipment availability on the health care workforce, by setting, sufficiency of support mechanisms for the health care workforce, interruptions in the delivery of routine health care during the COVID-19 pandemic and the impact to citizens, primary and specialty care practices, and the health care workforce employed in these practices, and the ability of telehealth options to deliver routine and emergent health and behavioral health services to patients. Findings and recommendations must be submitted to the House Select Committee on COVID-19, Health Care

Working Group, by November 15, 2020. The act also allows NC AHEC to report subsequent study findings and recommendations, as appropriate, to the 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.

The act also includes a requirement that the North Carolina State Lottery Commission report on economic impact related to COVID-19, including the impact on sales of lottery games, on revenues, on retailers, on expenses of the lottery, and upon transfers of net revenue to the Education Lottery Fund. A report to the Joint Legislative Oversight Committee on the North Carolina State Lottery and the Fiscal Research Division is due by September 1, 2020.

The act amends a number of deadlines for studies already in place. The act extends the due date of the final report from the Children's Council from June 30, 2020 to August 1, 2020. The act also extends the due date of the General Commission's recommendations as to whether any conduct currently criminalized by an ordinance or in the North Carolina Administrative Code should have criminal penalties under a generally applicable State law, from May 1, 2020, to March 1, 2021. The act changes the current final reporting date to an interim report for the Joint Legislative Study Committee on Small Business Retirement Options and now requires a final report on August 1, 2020.

More broadly, the act extends the deadline of any report legally required to be submitted to a joint legislative oversight committee between March 10, 2020, and July 15, 2020, until July 15, 2020.

Major Legislation Enacted in 2020

The 2020 General Assembly enacted a number of significant pieces of legislation, a few of which are discussed below. Please note that additional legislation passed by the General Assembly is discussed in the Governor's Veto section of this document.

COVID-19 Related Legislation

North Carolina saw its first COVID-19 diagnosis in Wake County on March 3, 2020². Governor Cooper issued his first Executive Order related to the pandemic on March 10. In EO116 the Governor declared a state of emergency and established the Governor's Novel Coronavirus Task Force on COVID-19; the order also addressed a number of other issues including (but not limited to) transportation waivers, a prohibition on excessive pricing, hiring of temporary employees to assist the Department of Health and Human Services and local health departments, business travel restrictions on state employees, public health surveillance and control measures, maximizing laboratory testing, right of entry in public places for cleaning and disinfecting measures, and alteration and access to specified funding³. Through a series of subsequent executive orders, the Governor prohibited mass gatherings of 100 or more persons and closed public K-12 schools⁴, made changes to unemployment benefits and closed restaurants and bars for dine-in services⁵, and closed entertainment facilities without a retail or dining component (including gyms, movie theaters, and bowling alleys) and personal care and grooming businesses

² <https://www.ncdhhs.gov/news/press-releases/north-carolina-identifies-first-case-covid-19>

³ EO, 116, issued March 10, 2020, <https://governor.nc.gov/documents/executive-order-no-116>

⁴ EO 117, issued March 14, 2020, <https://governor.nc.gov/documents/executive-order-no-117>

⁵ EO 118, issued March 17, 2020, <https://governor.nc.gov/documents/executive-order-no-118>

such as hair salons⁶. The Governor has continued to make changes to these provisions through subsequent executive orders that have been issued throughout the pandemic. The General Assembly's first public action to address the pandemic was Speaker Moore's establishment of the House Select Committee on COVID-19 (Select Committee). The Select Committee consisted of four working groups: Continuity of State Operations, Economic Support, Education, and Health Care. These working groups began meeting prior to the convening of the 2020 session, with audio from the meetings streamed online and live video streamed via YouTube. The working groups developed draft legislation, which was then negotiated out with the Senate. Many of these bills laid the groundwork for bills considered during the first two weeks of the 2020 legislative session. From the first day of session on April 28, through May 2, legislative work focused on COVID-19 related legislation, including distributing funds allocated in the Federal CARES Act. [S.L. 2020-4](#) (House Bill 1043) contains the appropriation and allocation of COVID related funding, while [S.L. 2020-3](#) (Senate Bill 704) includes COVID related policy provisions concerning economic support, education, health care, and continuity of State government and regulatory relief. More detailed discussions of some of the provisions found in these two bills and related legislation can be found in the following blogs and materials written by SOG faculty members:

[New Rules for Meetings of Public Bodies During State-Level Declared Emergencies](#)

[Remote Zoning Hearings during Declared Emergencies](#)

[New Legislation: Disclosing Communicable Disease Information to Law Enforcement to Prevent or Lessen a Serious or Imminent Threat](#)

[2020 Legislative Summary: Emergency Management](#)

[Slightly Modified Daily Deposit Requirement During COVID-19](#)

[2020 Motor Vehicle Legislation of Interest--To Me and the Kids](#)

Following a two-week break, session reconvened on May 18. During the remainder of the 2020 session, additional legislation was passed that amended the earlier COVID-19 related legislation or enacted new provisions including additional funding changes that were made at the end of session by [S.L. 2020-97](#) (House Bill 1105). While COVID-19 related legislation is briefly summarized below, a comprehensive collection of materials on COVID-19 written by SOG faculty and staff can be found [here](#).

This session addressed many areas of law in order to make allowances during the pandemic, which can be found in the following legislation: *Motor Vehicles and Transportation*, [S.L. 2020-30](#) (House Bill 158); *Education and Higher Education*, [S.L. 2020-70](#) (Senate Bill 208), [S.L. 2020-49](#) (Senate Bill 113), and [S.L. 2020-64](#) (Senate Bill 816); *Unemployment*, [S.L. 2020-53](#) (House Bill 1229); *Alcohol Beverage Control*, [S.L. 2020-94](#) (Senate Bill 226); *Public Health*, [S.L. 2020-82](#) (Senate Bill 361); *Social Services*, [S.L. 2020-88](#) (Senate Bill 808); *Elections*, [S.L. 2020-17](#) (House Bill 1169); *Various limited immunity from liability*, [S.L. 2020-90](#) (House Bill 902) and [S.L. 2020-89](#) (House Bill 118); *Miscellaneous*, [S.L. 2020-80](#) (House Bill 1023); [S.L. 2020-64](#) (Senate Bill 816); and [S.L. 2020-32](#) (Senate Bill 836).

Regulatory Relief Act

[S.L. 2020-74](#) (House Bill 308) contains numerous provisions on a wide range of topics, including environment, securities, public safety, agriculture, utilities, and building. Those provisions include the following.

The act adds to the powers and duties of the On-site Wastewater Contractors and Inspectors Certification Board, with approval of the Governor and Council of State, acquiring, holding, conveying, renting, encumbering, alienating, and otherwise dealing with real property in the same way as a private person or corporation.

Section 3 of the act allows the Secretary of Environmental Quality, during a state of emergency declared by the Governor because of a natural disaster, to put in place emergency measures and procedures needed to manage solid waste generated during the emergency. Any

⁶ EO 120, issued March 23, 2020, <https://governor.nc.gov/documents/executive-order-no-120>

such emergency measures and procedures would expire no more than 60 days after the end of the state of emergency.

The act amends the Wildlife Resource Commission (WRC)'s process for inspecting, investigating, and removing derelict and abandoned water vessels. The program is extended to now apply to vessels left or stored for more than 30 days in one of the following ways: (1) in a wrecked, junked, or substantially damaged or dismantled condition upon any public waters and lands of the State; (2) at a harbor or anchorage within public waters of the State without the consent of the public agency having jurisdiction thereof; or (3) docked, grounded, or beached upon the property of another without the consent of the owner of the property. The act also sets out notification requirements that must be met before removing and disposing of a vessel.

The act extends the mercury switch program, which was set to expire in 2021, by ten years. The act also amends the due dates of numerous reports due to the General Assembly on various environmental issues.

Retroactively to March 1, 2020, the act requires the Department of Transportation to pay the non-betterment cost for the relocation of water and sewer lines owned by a private water or sewer utility serving 10,000 or fewer customers that are within the existing State transportation project right-of-way and must be relocated for a State transportation improvement project.

Section 26 of the act allows inmates in local confinement facilities to use a mobile telephone or other wireless communications device upon approval by the sheriff or other person in charge of a local confinement facility so long as it is provided to the inmate in a manner consistent with the device's approved use.

First Step Act

[S.L. 2020-47](#) (House Bill 511), also known as "The North Carolina First Step Act.," increases judicial discretion when sentencing for drug trafficking offenses. The act amends existing law to allow a judge sentencing a person for a conviction of drug trafficking offenses or conspiracy to commit such offenses, under G.S. 90-95(h) or (i), to reduce the fine and sentence the person consistent with the applicable offense classification and prior record level, if the judge enters into the record specific findings that all of 11 specified conditions are met, including that the defendant has accepted responsibility for the defendant's criminal conduct, the defendant has not previously been convicted of a felony under G.S. 90-95, violence was not used, the defendant has admitted that he or she has a substance abuse disorder involving a controlled substance and has successfully completed a Court approved treatment program, and imposing the mandatory minimum prison term would result in substantial injustice. The act also establishes the process under which offenders serving active sentences ordered on or before November 30, 2020, may apply for a Motion for Appropriate Relief for a modification of the individual's sentence.

Finally, the act requires the Department of Information Technology, Government Data Analytics Center, to conduct a study to identify the criminal justice data elements related to individuals who have been charged with infractions or criminal offenses that are currently collected and maintained. More about this study is available above in the Studies Committees and Commissions section of this document.

More information on this act, written by faculty member Jamie Markham, can be found [here](#). Information on other criminal law legislation, written by faculty member Brittany Williams, can be found [here](#).

Expunctions

[S.L. 2020-35](#) (Senate Bill 562), also known as "The Second Chance Act.," makes a number of changes related to expunction. Among the act's changes, Part I of the act enacts a new statute that allows for petitioning to expunge misdemeanors and certain Class H or I felonies from a person's criminal record when the offense was committed before December 1, 2019, and the person was less than 18 years old, but at least 16 years old. This provision is meant to provide relief for juveniles convicted between the time the raise the age legislation was passed by the General Assembly in 2017 and when it took effect in 2019. More details on this act can be found in a blog post written by faculty member Jacquelyn Greene, available [here](#).

Land Use

[S.L. 2020-25](#) (Senate Bill 720) makes a number of changes needed to continue the consolidation of land use statutes into GS Chapter 160D. More information about this act, written by faculty member David Owens, can be found [here](#)

Department of Transportation Budget

The only bill to go into law without the Governor's signature was [S.L. 2020-91](#) (House Bill 77), concerning the Department of Transportation's budget.

The Governor's Veto

The Governor exercised his veto power 11 times this session, with many of the vetoed bills addressing efforts to reopen businesses during the pandemic. While veto overrides were attempted in at least one chamber for six of the vetoes, none of the override attempts were successful.

Outdoor Seating at Restaurants

[House Bill 536](#) allowed any establishment that prepares or serves food or drink, despite any declaration of emergency or any local ordinances, to open and operate its food and drink service for on-premises consumption so long as 11 conditions were met, including that: (1) the establishment existed on March 10, 2020, is properly licensed and permitted, and holds all necessary State and local regulatory permits; (2) food and drink service operation for on-premises consumption is limited to any authorized indoor seating and to the outdoor seating location; (3) outdoor seating meets listed requirements including an outdoor seating capacity limitation of the lesser of 50% of the current indoor seating capacity or 100 customers; and (4) the establishment maintains and enforces the social distancing requirements. Similar provisions were set out to allow private clubs, private bars, wineries, and distilleries to open and serve alcohol for on-premises consumption outdoors. The act was set to expire upon the later of (1) 30 days after any declaration of emergency prohibitions and restrictions applicable expire or are otherwise terminated to permit the establishment to open for full unrestricted service of food and drink, or (2) October 31, 2020. Governor Cooper vetoed the bill on June 5.

In his veto message⁷, the Governor stated that, "State and local Government leaders must be able to act quickly during the COVID-19 Emergency to prevent a surge in cases that could overwhelm hospitals and harm the public. House Bill 536 would limit the ability of leaders to respond quickly to COVID-19 and hamper efforts to protect the health and safety of every North Carolinian." Neither chamber attempted to override the veto. This language appeared again, however, with some modifications House Bill 594 (see below).

Opening Gyms, Health Clubs, and Fitness Centers, and Restaurants and Bars

[House Bill 594](#) allowed, despite any declaration of emergency or local ordinances, any indoor or outdoor (1) exercise and fitness facilities, (2) gyms, (3) health clubs, and (4) fitness centers to open and resume operations so long as the specified 15 conditions were met. Among its requirements, these provisions required that the establishment have been in existence on March 10, 2020, or had a valid certificate of occupancy and business license issued by that date, limited indoor capacity to 50% (excluding employees), set out health and safety requirements for employees, encouraged visitor to wear masks, and set out cleaning and distancing requirements. These provisions were set to expire 30 days after any declaration of emergency prohibitions and

⁷ The Governor's Objections and Veto Message for House Bill 536 is available on the bill page, [here](#).

restrictions applicable expire or are otherwise terminated to permit indoor or outdoor fitness and exercise facilities, gyms, health clubs, and fitness centers to open for full unrestricted operations.

The act also contained provisions identical to those in House Bill 536 concerning the reopening of restaurants and private clubs and bars, wineries, and distilleries. This act, however, added in a provision allowing the Governor, if a majority of the Council of State concurred, to exercise specified statutory powers during a state of emergency as related to establishments that prepare or serve food or drink, private clubs or private bars, wineries, distilleries, exercise and fitness facilities, gyms, health clubs, or fitness centers. The act also specified that the Secretary of Health and Human Services or the Secretary of Environmental Quality had to notify the Governor and receive concurrence from a majority of the Council of State before ordering an abatement of an imminent hazard related to COVID-19 that would require the closure of establishments that prepare or serve food or drink, private clubs or private bars, wineries, distilleries, exercise and fitness facilities, gyms, health clubs, or fitness centers.

The Governor vetoed the act on June 19⁸, stating that, “Tying the hands of public health officials in times of pandemic is dangerous, especially when case counts and hospitalizations are rising. State and local officials must be able to take swift action during the COVID-19 emergency to prevent a surge in patients from overwhelming hospitals and endangering the lives of North Carolinians. The bill could restrict leaders who need to respond quickly to outbreaks and protect public health and safety.” The Governor repeated this veto message several times in his objections to other COVID-19 reopening related legislation. The House attempted to override the veto on June 24, but with a vote of 66-53, the vote failed. Another attempt at the authorizations in Section 1 of this act for exercise and fitness facilities, gyms, health clubs, and fitness centers, with a few alterations, was made in [House Bill 806](#).

Governor’s Emergency Powers

[Senate Bill 105](#) limited the duration of a declaration of a state of emergency that applies in a statewide emergency area (meaning two-thirds or more of the State’s counties) to 48 hours after issuance, however, if the Council of State concurred, the declaration could be extended or 30 days at a time. A similar requirement would have applied during a gubernatorially or legislatively declared state of emergency when the Governor seeks to impose prohibitions or restrictions needed to deal with the emergency instead of a local government exercising its own authority. Finally, the act required concurrence from the Council of State before declaring certain property uses are an imminent hazard and issuing an order of abatement.

Governor Cooper vetoed the act on July 2, stating, “The Emergency Management Act clearly provides the Governor with statutory authority to direct the state’s response to a public health emergency that could affect the entire state’s population. A devastating pandemic, like COVID-19, threatens the state’s people and warrants providing the state’s chief executive have the authority to manage the state’s response by placing prohibitions and restrictions on activities that threaten the public health and safety. The legislators who foresaw such challenges were right to vest that authority with the Governor, so that government can respond quickly and on a statewide basis to emergencies as they evolve. Placing additional bureaucratic and administrative obligations on the declaration of a state of emergency is a substantial change to the law, frustrates executive branch officials’ ability to quickly and efficiently respond to such an emergency by requiring the concurrence of officials with limited involvement in managing the response, and would risk diverting focus from responding to such an emergency⁹.” With a vote of 26-21, the Senate failed to override the veto.

⁸ The Governor’s Objections and Veto Message for House Bill 594 is available on the bill page [here](#).

⁹ The Governor’s Objections and Veto Message for Senate Bill 105 is available on the bill page [here](#).

Opening Skating Rinks and Bowling Alleys

[Senate Bill 599](#) allowed the reopening of skating rinks and bowling alleys despite any declaration of emergency or local ordinances, so long as the 12 specified conditions were met at the facility. Indoor capacity was limited to 50% and the establishment had to have been in existence on March 10, 2020, or have had a valid certificate of occupancy and business license issued by that date. Other conditions addressed employee health and mask wearing, disinfecting and cleaning standards, facilitating social distancing, and various customer protections such as contactless check-in and providing hand sanitizer. These provisions would have expired when any applicable declaration of emergency prohibitions and restrictions expired or were otherwise terminated. The act allowed the Governor, if a majority of the Council of State concurred, to exercise specified statutory powers during a state of emergency as related to skating rinks and bowling alleys. The act also specified that the Secretary of Health and Human Services or the Secretary of Environmental Quality had to notify the Governor and receive concurrence from a majority of the Council of State before ordering an abatement of an imminent hazard related to COVID-19 that would require the closure of skating rinks and bowling alleys.

The act also would have amended House Bill 594 to allow for the opening of dining establishments located in minor league baseball stadiums, with capacity limited to 10% of the stadium's spectator capacity.

The Governor vetoed the act on July 2, setting out the following veto statement. "Tying the hand of public health and executive branch officials in times of pandemic is dangerous, especially when case counts and hospitalizations are rising at a concerning rate. As we see in other states with surging COVID-19 case counts, state and local officials must be able to take swift action during this emergency to prevent a surge of patients from overwhelming hospitals and endangering the lives of North Carolinians. At this critical time, opening bowling alleys, skating rinks, and other indoor entertainment facilities runs contrary to both the troubling trends regarding COVID-19 deaths in North Carolina as well as scientific and medical data, which establishes that COVID-19 is significantly more likely to be transmitted in these settings. Bowling alleys and skating rinks exhibit many of the risk factors under the best available scientific and medical data. In these places, people gather in close proximity, are indoors with recirculating air, stay in the space for extended period of time, and engage in physical exertion. Opening these higher-risk facilities would spread COVID-19 and endanger the State's flexibility to open the public schools. Given the rapidly evolving nature of this pandemic, executive officials are best positioned to make emergency determinations about public health. This bill is intended to restrict leaders who need to respond quickly to outbreaks and new scientific information to protect public health and safety.¹⁰" The Senate attempted to override the veto on July 8, but with a vote of 26-21, the vote failed.

Opening Amusement Parks, Arcades, and Entertainment Venues

[House Bill 258](#) allowed the reopening of amusement parks, gaming and business establishments with video games and arcade games, and fairs or carnivals that were members of the North Carolina Association of Agricultural Fairs, despite any declaration of emergency or local ordinances. Any such entities reopening were required to meet 10 specified requirements, including that the entity have been in existence on March 10, 2020, or had a valid certificate of occupancy and business license issued by that date and that capacity was limited to 50%. Other requirements to be met concerned worker and patron safety, and cleaning standards. This provision would have expired when any applicable declaration of emergency prohibitions and restrictions expired or were terminated to permit amusement parks and gaming and business establishments with video games and arcade games to open for full unrestricted operations and to allow unrestricted mass gatherings. The act allowed the Governor, if a majority of the Council of State concurred, to exercise specified statutory powers during a state of emergency as related to amusement parks, gaming and business establishments with video games and arcade games, and fairs or carnivals. The act also specified that the Secretary of Health and Human Services or the

¹⁰ The Governor's Objections and Veto Message, for Senate Bill 599 is available on the bill page [here](#).

Secretary of Environmental Quality had to notify the Governor and receive concurrence from a majority of the Council of State before ordering an abatement of an imminent hazard related to COVID-19 that would require the closure of amusement parks, gaming and business establishments with video games and arcade games, and fairs or carnivals.

The act also would have allowed any venues for receptions or parties to reopen and resume operations, despite any declaration of emergency or local ordinances. These facilities were required to meet 12 specified requirements, including that the establishment had been existence on March 10, 2020, is properly licensed and permitted, and holds all necessary State and local regulatory permits, and capacity was limited to the lesser of 50% of the fire capacity, 12 people per 1,000 square feet, or 300 people. In addition to worker and patron safety, and cleaning standards, self-service and food and beverage options were prohibited and these entities were required to collect and retain guest contact information for 15 days after an event, to be made available for contact tracing when requested. This provision was to expire when any applicable declaration of emergency prohibitions and restrictions expire or are otherwise terminated to permit venues for receptions and parties to open for full unrestricted use.

The act also allowed the reopening of outdoor stadiums with a spectator capacity of 12,000 or less that operates a restaurant on the stadium's premises for the operation of food and drink service to be consumed on-premises. Such entities had to meet seven requirements, including that the stadium was in existence on March 10, 2020, is properly licensed and permitted, and holds all necessary State and local regulatory permits, that the food and drink service be limited to any authorized indoor seating that is specifically designated for the restaurant operation and to the outdoor seating location, and that the seating capacity be limited to 10% of the stadium's spectator capacity. This provision would have expired upon the later of 30 days after any declaration of emergency prohibitions and restrictions applicable expire or are otherwise terminated to permit the establishment to open for full unrestricted service of food and drink, or October 31, 2020. The act allowed the Governor, if a majority of the Council of State concurred, to exercise ~~powers~~-specified statutory powers during a state of emergency as related to outdoor stadiums that operate restaurants. The act also specified that the Secretary of Health and Human Services or the Secretary of Environmental Quality had to notify the Governor and receive concurrence from a majority of the Council of State before ordering an abatement of an imminent hazard related to COVID-19 that would require the closure of outdoor stadiums that operate restaurants.

Governor Cooper vetoed the act on July 2. In his veto message¹¹, the Governor said, "Tying the hands of public health officials in times of pandemic is dangerous, especially when case counts and hospitalizations are rising. State and local officials must be able to take swift action during the COVID-19 emergency to prevent a surge of patients from overwhelming hospitals and endangering the lives of North Carolinians. The bill could restrict leaders who need to respond quickly to outbreaks and protect public health and safety." Neither chamber attempted to override the veto.

Social Services, OAH

Among its provisions, [House Bill 612](#) would have required the Division of Social Services to report to the Office of Administrative Hearings (OAH) on the Division's policies, guidelines, and other interpretive statements. The Division's Social Services Commission (Commission) and OAH were required to review the report and identify whether they were in compliance with the rulemaking process. Any policies, guidelines, or other interpretive statements found not to be in compliance were to be deemed interim rules that would become void July 1, 2022, if the Commission has failed to adopt that interim rule as a permanent rule by that date. Also, any policy, guideline, or other interpretative statement issued by the Division after the act became law would have become void one year after being issued, with the option to reissue it for an additional year prior to the deadline.

¹¹ The Governor's Objections and Veto Message for House Bill 258 is available on the bill page [here](#).

The Governor vetoed the bill on July 2, stating, “House Bill 612 limits the ability of the Department of Health and Human Services to implement, adapt to and oversee programs of public assistance and child welfare which are regulated and driven by federal law, thereby jeopardizing the health, safety and well-being of our most vulnerable populations. Additionally, this is an overreach of legislative authority to effectively nullify executive branch policy and rulemaking which is unconstitutional.¹²” An override was not attempted.

Concealed Carry

[House Bill 652](#) made a number of changes concerning the renewal of lapsed concealed handgun permits, and concealed handgun carrying for specified law enforcement facility and emergency medical services employees. The act also would have allowed a person with a concealed handgun carry permit to carry a handgun on nonpublic educational property that is both a school and a place of worship outside of the school’s operating hours.

The Governor vetoed the act on July 2, stating, “The bill allows guns on school property which threatens the safety of students and teachers.¹³” An override was attempted in the House, but failed by a vote of 66-48.

Fourth of July Celebrations

[House Bill 686](#) prohibited the Governor and local governments from banning parades or fireworks displays from July 1-July 10. The act also gave limited immunity from civil liability for acts or omissions resulting in an individual contracting COVID-19 during a parade, or firework display occurring during that same time period. The act was set to expire when any applicable declaration of emergency prohibitions and restrictions on parades and firework displays scheduled to occur from July 1-July 10 expire or are terminated.

Governor Cooper vetoed the bill on July 2nd, once again stating the same objections to reopening during the COVID-19 pandemic, “Tying the hands of public health officials in times of pandemic is dangerous, especially when case counts and hospitalizations are rising. State and local officials must be able to take swift action during the COVID-19 emergency to prevent a surge of patients from overwhelming hospitals and endangering the lives of North Carolinians. The bill could restrict leaders who need to respond quickly to outbreaks and protect public health and safety.¹⁴” The House attempted to override the veto on July 8, but the attempt failed by a vote of 58-54.

Opening Exercise and Fitness Facilities

[House Bill 806](#) made a second attempt to reopen exercise and fitness facilities, gyms, health clubs, and fitness centers. The language in the act is nearly identical to the language in Section 1 of the previously vetoed House Bill 594. A change was made in the reopening criteria; the total indoor capacity was limited to 40% instead of 50% of the fire capacity. The effective date of the act also differs in that the act expires when Executive Order 147 was repealed, replaced, or rescinded.

Governor Cooper vetoed the bill on July 2. His veto message was the same message as the one accompanying the other vetoes of legislation aimed at reopening during the COVID-19 pandemic, “Tying the hands of public health officials in times of pandemic is dangerous, especially when case counts and hospitalizations are rising. State and local officials must be able to take swift action during the COVID-19 emergency to prevent a surge in patients from

¹² The Governor’s Objections and Veto Message for House Bill 612 is available on the bill page [here](#).

¹³ The Governor’s Objections and Veto Message for House Bill 652 is available on the bill page [here](#).

¹⁴ The Governor’s Objections and Veto Message for House Bill 686 is available on the bill page [here](#).

overwhelming hospitals and endangering the lives of North Carolinians. The bill could restrict leaders who need to respond quickly to outbreaks and protect public health and safety.¹⁵ The House attempted to override the veto on July 8, but failed to do so by a vote of 63-51.

Permanency Placement and Public Assistance

[House Bill 918](#) required the Department of Health and Human Services to report on specified expenditures for the Supplemental Nutrition Assistance Program and Temporary Assistance for Needy Families (TANF) program, and amended several laws related to juvenile abuse, neglect, and dependency. Among the changes, the act allows the court to eliminate reunification with the child's parent in the disposition order when a parent is found to have exposed the child to unlawful controlled substances in utero or the parent used controlled substances in violation of the law while the child was in utero.

In his veto message on July 2, Governor Cooper, stated, "House Bill 918 discourages pregnant women with substance use disorders to seek treatment and prenatal care, risking their health and the health of newborns. And while it penalizes pregnant women with substance use disorders, it does nothing to expand access to treatment. This would disproportionately impact women of color and low-income women, who are already less likely to have access to the substance use treatment and quality healthcare they need."¹⁶ An override of the veto was not attempted.

Department of Health and Human Services Changes

[Senate Bill 168](#) is a wide-ranging bill that made a number of modifications and technical changes to laws impacting various divisions with the Department of Health and Human Services, made changes to DHHS block grants, and added an exception for psychiatric physicians from the requirement to report crimes against juveniles. Among the act's provisions concerning the Chief Medical Examiner was a new statute that required the information and records concerning a death investigation that a public entity provides to the Office of the Chief Medical Examiner, be treated with the same confidentiality as those provided while it was in the public entity's possession and prohibited that information from becoming public record (unless it was considered public record while in position of the public entity).

Governor Cooper vetoed the act on July 6, stating that, "Senate Bill 168 includes a provision to change the handling of public records by the Office of the Chief Medical Examiner which could have the unintended consequences of limiting transparency in death investigations. While I believe neither the Department of Health and Human Services which proposed it, nor the General Assembly which unanimously passed it had any ill intent, the concerns that have since been raised make it clear this provision should not become law."¹⁷ An override was not attempted.

Unfinished Business

At the end of the 2020 session, seven bills remained assigned to conference committees. The full list of the bills remaining in conference can be found [here](#).

¹⁵ The Governor's Objections and Veto Message for House Bill 806 is available on the bill page [here](#).

¹⁶ The Governor's Objections and Veto Message for House Bill 918 is available on the bill page [here](#).

¹⁷ The Governor's Objections and Veto Message for Senate Bill 168 is available on the bill page [here](#).

The 2021 Session

The General Assembly is scheduled to convene for the long session on January 13, 2021. This initial convening will be for an organizational session during which legislators will elect officers, adopt rules, and otherwise organize the session. Legislators will return for the regular session on January 27, 2021.

Christine B. Wunsche