

# The General Assembly

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The 2021 legislative long session, which included three reconvened sessions, officially adjourned on May 6, 2022, over a year after it began. It was the longest session in history and while it included several breaks and reconvened sessions, represented a step closer to a continuous year-long session. The General Assembly convened on January 13, 2021, for a one-day organizational session, reconvened to begin the session's work on January 27, and adjourned after having completed the long session's work on March 11, 2022, while holding reconvened sessions on April 4 and May 4. Although the number of bills filed during this historically long session was in line with what is expected in a long session, the percentage of those bills that were enacted decreased.

This chapter provides an overview of the 2021 session, including the organization of each chamber and major legislation enacted. Please note that School of Government (SOG) faculty members and experts have written detailed blog posts, outlines, and summaries of selected legislation of interest to state and local government officials. These summaries are available on the SOG's Legislative Reporting Service website <https://lrs.sog.unc.edu/>, under the "Legislative Summaries" link; the site will be updated as summaries are available.

## Overview of the 2021 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 typically runs from May through July or August. 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. Legally the short session is a continuation of the long session. Beginning in 2013, legislators also have convened a one-day organization session a couple of weeks before returning to conduct business during the long session.

The 2021 session welcomed 35 new members, with both chambers retaining a Republican majority. The Senate membership included 10 new members, while the House had 25 new members.

On January 13, legislators met to adopt temporary rules, name leadership, and announce committee appointments. This one-day session allowed legislators to quickly get to work when the session reconvened on January 27. Work on the budget and a redistricting process that saw a delayed start and litigation stretched this long session into the longest in history. As in previous years, several breaks were taken during the session during which votes were not taken for a week or two. Such breaks occurred in April, July, October, and November. During the fall, both chambers often had a light schedule, only holding voting sessions one or two days of the week.

During the 2021 session, legislators approved multiple adjournment resolutions (in addition to the adjournment resolution which adjourned the organizational session) that reconvened the long session three times. Each time the session was reconvened, there were limits placed on the scope of legislation that could be considered during the reconvened session. While votes were held during the first reconvened session, no actions were taken during the other two reconvened sessions. These sessions are discussed in more detail below.

Governor Cooper vetoed 18 bills, setting a record for the most vetoes during a single session. As of this writing, while two attempts were made, none of the 18 vetoes have been overridden. A further discussion of these bills can be found in the “The Governor’s Veto” section of this document. The Governor allowed only one bill to become law without his signature: Revise Local Gov’t Redistricting/Census, S.L. 2021-56 (Senate Bill 722).

## The House of Representatives

The November 2020 election resulted in the election of 25 new House of Representatives members, as well as the election of four former members, for a total membership of 69 Republicans and 51 Democrats. The Republicans retained a majority, but it was not a veto-proof majority<sup>1</sup>. Representative Tim Moore of Cleveland County was re-elected as Speaker of the House while Representative Robert Reives II was elected Minority Leader. Table 1-1 lists the 2021 House officers.

The demographics of the 2021 House can be broken down as follows:

- 29 women, 3 fewer than in 2019
- 91 men
- 24 African Americans, two fewer than in 2019
- One Native American
- One Latino

There were several changes in House membership during the 2021 session, sadly including the death of two members. Representative Jerry Carter passed away on August 3 from a rare gastrointestinal disease<sup>2</sup>. A. Reece Pyrtle Jr. was appointed to fill the seat. Representative Dana Bumgardner passed away after a battle with cancer on October 2<sup>3</sup>. Donnie Loftis was appointed to fill his seat. Representative Darren Jackson resigned shortly into 2021 on January 6 upon being appointed to serve on the North Carolina Court of Appeals. James Roberson was named as his replacement. Longtime member Representative Susan Fisher resigned effective January 1, 2022. Caleb Rudow was appointed to fill her position.

**Table 1-1. Officers of the 2021 House of Representatives**

Tim Moore, Cleveland County, Speaker
Sarah Stevens, Alleghany, Surry and Wilkes counties, Speaker Pro Tempore
John R. Bell IV, Greene, Johnston, Wayne counties, Majority Leader
Brenden H. Jones, Columbus and Robeson counties, Deputy Majority Leader
Jon Hardister, Guilford County, Majority Whip
James L. Boles Jr., Moore County; Bobby Hanig, Currituck, Dare, Hyde, and Pamlico counties; Keith Kidwell, Beaufort and Craven counties; and Pat McElraft, Carteret and Jones counties, Deputy Majority Whips
John Szoka, Cumberland County, Conference Chair
Timothy D. Moffitt, Henderson County, Jason Saine, Lincoln County, Matthew Winslow, Franklin and Nash counties, Deputy Conference Chairs

<sup>1</sup> A vote in favor of the bill by three-fifths of the members present and voting is needed to override a veto. In the House, 72 members are needed for a veto-proof majority.

<sup>2</sup> <https://www.witn.com/2021/08/03/north-carolina-rep-jerry-carter-longtime-baptist-minister-dies-66/>, viewed 04/13/2022.

<sup>3</sup> <https://www.gastongazette.com/story/news/2021/10/03/nc-state-representative-dana-bumgardner-gaston-county-dies-cancer/5979636001/>, viewed 04/13/2022.

Pat B. Hurley, Randolph County, Joint Caucus Liaison
David Willis, Union County, New Member Leader
Ben T. Moss Jr., Montgomery, Richmond, Stanly counties, New Member Whip
Robert T. Reives II, Chatham and Durham counties, Democratic Leader
Gale Adcock, Wake County, Deputy Democratic Leader
Deb Butler, New Hanover County, Susan C. Fisher, Buncombe County, Amos L. Quick III, Guilford County, Raymond E. Smith Jr., Sampson and Wayne counties, Democratic Whips
Cynthia Ball, Wake County, Democratic Freshman Chair
Vernetta Alston, Durham County, Terry M. Brown Jr., Mecklenburg County, Freshman Caucus Co-Chairs
James White, Principal Clerk
Larry Elliott, Sergeant-at-Arms

## The Senate

Ten new members were elected to the Senate during the 2020 elections. The Republicans retained their majority in the Senate, but it was not a veto-proof majority<sup>4</sup>; the 2021 Senate was made up of 28 Republicans and 22 Democrats. The demographics of the 2021 Senate can be broken down as follows:

- 16 women, five more than in 2019
- 34 men
- 12 African Americans, ten more than in 2019
- Two Indian Americans

The Senate saw only one change in membership, which happened before the session convened. Senator Sam Searcy of Wake County resigned on January 6; former Representative Sydney Batch was named as his replacement.

The 2021 Senate officers and leadership are shown in Table 1-2.

**Table 1-2. 2021 Senate Officers and Leadership**

Mark Robinson, Lieutenant Governor, President
Phil Berger, Caswell, Rockingham, Stokes, and Surry counties, President Pro Tempore
Ralph Hise, Madison, McDowell, Mitchell, Polk, Rutherford, and Yancey counties, Deputy President Pro Tempore
Kathy Harrington, Gaston County, Majority Leader
Tom McInnis, Anson, Moore, Richmond, and Scotland counties; Jim Perry, Lenoir and Wayne counties, Majority Whip
Carl Ford, Rowan and Stanly counties, Republican Joint Caucus Leader
Dan Blue, Wake County, Democratic Leader
Jay J. Chaudhuri, Wake County, Democratic Whip
Ben Clark, Cumberland and Hoke counties, Democratic Caucus Secretary
Sarah Holland, Principal Clerk
Robert Myrick, Sergeant-at-Arms

## Statistical Comparison

A total of 1,729 bills were introduced during the 2021 legislative session. Although session was much longer than a typical one, the number of bills introduced was in line with that of the previous 5 biennia, but a lower than typical percentage of those bills were enacted into law. Only 12 percent

<sup>4</sup> A vote in favor of the bill by three-fifths of the members present and voting is needed to override a veto. In the Senate, 30 members are needed for a veto-proof majority.

of the bills introduced were ratified. Table 1-3 includes an overview of the statistics from 2021 as compared to the previous five long sessions.

**Table 1-3. Statistical Comparisons of Recent Odd-Year Sessions**

	<b>2011</b>	<b>2013</b>	<b>2015</b>	<b>2017</b>	<b>2019</b>	<b>2021***</b>
<b>Date convened</b>	January 26	January 30	January 28	January 25	January 30	January 27
<b>Date adjourned</b>	June 18	July 26	September 30	June 30**	October 31**	May 6, 2022
<b>Senate legislative days</b>	87	103	137	93	150	201
<b>House legislative days</b>	87	103	135	93	153	203
<b>Senate bills introduced</b>	785	726	722	685	692	748
<b>House bills introduced</b>	936	1022	944	927	1021	981
<b>Total bills introduced</b>	1721	1748	1666	1609	1713	1729
<b>Laws Enacted (includes session laws and joint resolutions)</b>	405	442*	314*	210	268	210
<b>% of introduced bills enacted</b>	24%	25%	19%	13%	16%	12%

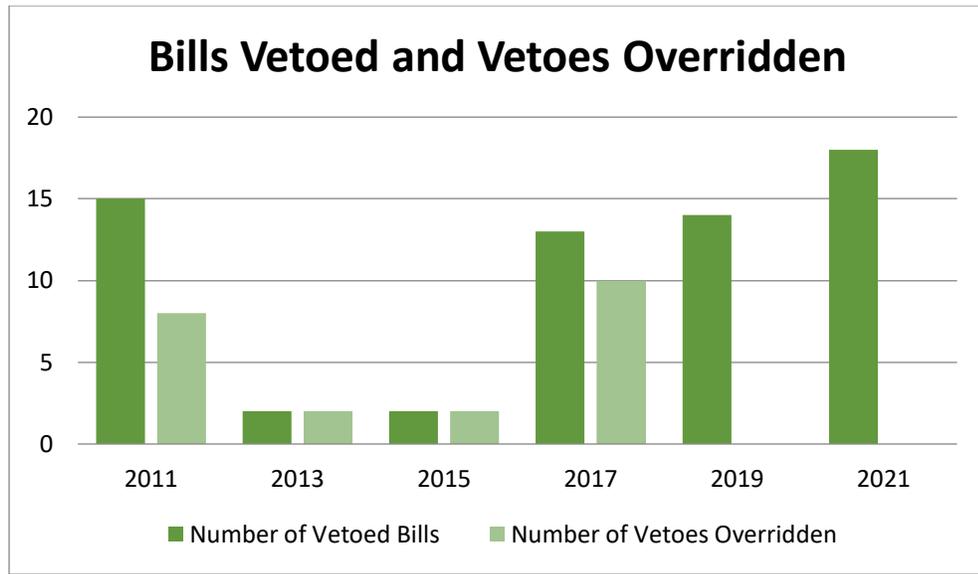
\* With reconvened sessions becoming more commonplace, this and subsequent data will include all reconvened sessions to reflect the total impact of the session; any separate extra or veto sessions will be excluded.

\*\*This adjournment date and the numbers included in the chart do not reflect the reconvened sessions.

\*\*\* These totals include bills enacted during the 2013 and 2015 organizational sessions and the 2013 veto override session.

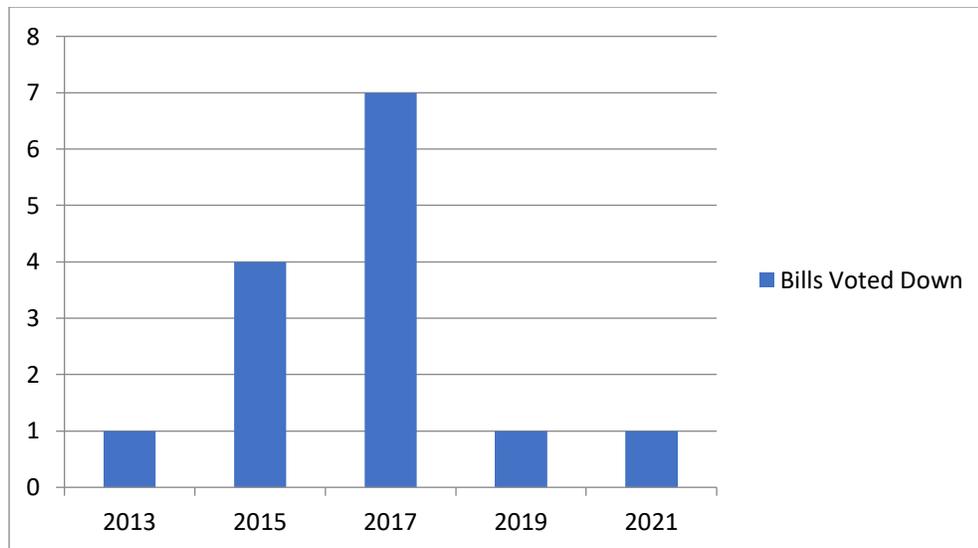
Governor Cooper's 18 vetoes make 2021 the record holder for the highest number of bills vetoed in a single year, which was previously 15. Attempts to override the Governor's vetoes were made only twice and both efforts failed. Unlike in 2019 when one of the two chambers was able to override a veto three times, neither chamber was able to come up with the votes needed in the two override attempts in 2021.

**Chart 1-1. Bill Vetoes and Veto Overrides**



While session was the longest in history, the percentage of bills that became law was lower than during the previous long session. Only one bill was voted down on the chamber floor, while one other bill was given an unfavorable report out of committee. House Bill 151, which would have no longer allowed a person convicted of felony death by vehicle or death by impaired boating who had a Record Level I to be given an intermediate sentence instead of serving an active sentence failed in the House on second reading. While the 2021 number represents a dramatic decrease from the number of bills that failed in 2017, it equals the number of failed bills in 2019. As illustrated in Chart 1-2, in 2021 the one bill voted down on the chamber floor is more in line with what is typical in a long session.

**Chart 1-2. Number of Bills Voted Down on House or Senate Floor**



The 2019 session was unusual in that the legislators did not adopt a final comprehensive budget. After the Governor vetoed the budget, legislators decided to instead adopt a number of “mini”

budget bills. Although it did not receive final approval until late in the session, legislators did adopt a complete budget bill in 2021. The 2021 Appropriations Act (S.L. 2021-180, Senate Bill 105) was ratified on November 18, and quickly signed into law by Governor Cooper on the same day. This is the latest the budget has been enacted going back to 1961<sup>5</sup>. The latest a two-year budget was previously adopted was in 2001, when the budget was ratified on September 21 and signed into law on the 26th; the latest ratified budget before 2021 was in the 1998 short session, which ratified the appropriations act on October 28 and enacted it on the 30th. As seen in Table 1-4, over the most recent five long sessions, this session's ratification date is the latest since 2015.

**Table 1-4. Appropriations Act Ratification Dates**

<b>Year</b>	<b>Date of Appropriation Act Ratification</b>
2013	July 25
2015	September 18
2017	June 22
2019	N/A
2021	November 18

## Reconvened Sessions

The 2021 session included three reconvened sessions. During the session, legislators approved multiple adjournment resolutions (in addition to the adjournment resolution which adjourned the organizational session) that paused the long session three times. The first reconvened session took place December 30 through March 11. No actions were taken during the final two sessions, which took place in April and May 2022.

### December Session

Each time the session was reconvened, there were limits placed on the scope of legislation that could be considered during the reconvened session. The first such resolution, Res. 2021-10, adjourned session on December 10 and reconvened session on December 30. Matters that could be considered during the reconvened session were limited to the following:

- (1) bills returned by the Governor with his objections under Section 22 of Article II of the North Carolina Constitution, but solely for the purpose of considering overriding the veto upon reconsideration of the bill;
- (2) bills providing for the selection, appointment, or confirmation, as required by law, including the filling of vacancies, of positions for which the appointees were elected by the General Assembly upon recommendation of the Speaker of the House of Representatives, President of the Senate, or President Pro Tempore of the Senate;
- (3) bills providing for action on gubernatorial nominations or appointments;
- (4) bills concerning the districts for Congressional, State House, State Senate, judicial, municipal, county, and other elected officials and containing no other matters;
- (5) bills responding to actions related to litigation challenging the legality of legislative enactments, including litigation concerning the matters listed in (4) above, and containing no other matter;
- (6) bills returned for concurrence on or before Friday, December 10, 2021, to the house in which the bill originated;

<sup>5</sup> For a complete list of ratification dates for the budget, please see this list provided by the NCGA's library: <https://sites.ncleg.gov/library/wp-content/uploads/sites/5/2020/01/BudgetBillHistory.pdf>. Viewed 05/09/22.

(7) adoption of conference reports for bills for which conferees had been appointed by both houses on or before Friday, December 10, 2021;

(8) bills providing for impeachment pursuant to Article IV of the North Carolina Constitution or Chapter 123 of the General Statutes;

(9) simple resolutions addressing organizational matters of each respective house; and

(10) a joint resolution further adjourning the 2021 Regular Session or amending a joint resolution adjourning the 2021 Regular Session to a date certain.

When legislators returned on December 30, they remained in session until March 11, 2022, but they did not meet daily during this time. Much of the time in January, February, and March of 2022 was filled in with non-voting, or “skeleton” sessions. In fact, during this time, votes were taken only during the weeks of January 17, February 14, and March 7. Final approval was given during this time to House Bill 243 (Budget Technical Corrections, S.L. 2022-6), House Bill 605 (2022 Primary Date, vetoed), House Bill 797 (Extend Farmers/Fishermen Tax Filing Deadline, S.L. 2022-5), House Bill 975 (Confirm Karen Kemeraut, Utilities Commission, Res. 2022-1), House Bill 980 (Realign NC House Districts 2022/HTU22-4, S.L. 2022-4), House Bill 981 (Expressing Support for Ukraine), Senate Bill 173 (Free the Smiles Act, vetoed), Senate Bill 219 (Surveyor Lic. & Ed. Req’s/Constr. Contract Rev’s, S.L. 2022-1), Senate Bill 744 (Realign NC Senate Districts 2022/SCH22-4, S.L. 2022-2), and Senate Bill 745 (Realign Congressional Districts 2022/CST22-3, S.L. 2022-3). Res. 2022-2 (Senate Bill 748) adjourned the reconvened session on March 11, 2022, and scheduled additional reconvened sessions from April 4-6 and May 4-6. The resolution also scheduled the short session to begin on May 18, 2022.

### **Spring 2022 Sessions**

Items that could be considered during the reconvened sessions in April and May were limited to the following:

(1) bills returned by the Governor with his objections under Section 22 of Article II of the North Carolina Constitution, but solely for the purpose of considering overriding the veto upon reconsideration of the bill;

(2) bills providing for the selection, appointment, or confirmation, as required by law, including the filling of vacancies, of positions for which the appointees were elected by the General Assembly upon recommendation of the Speaker of the House of Representatives, President of the Senate, or President Pro Tempore of the Senate;

(3) bills providing for action on gubernatorial nominations or appointments;

(4) bills concerning the districts for Congressional, State House, State Senate, judicial, municipal, county, and other elected officials and containing no other matters;

(5) bills responding to actions related to litigation challenging the legality of legislative enactments, including litigation concerning the matters listed in (4) above, and containing no other matter;

(6) any bills relating to election laws;

(7) bills returned for concurrence on or before Friday, December 10, 2021, to the house in which the bill originated;

(8) adoption of conference reports for bills for which conferees had been appointed by both houses on or before Friday, December 10, 2021;

(9) bills providing for impeachment pursuant to Article IV of the North Carolina Constitution or Chapter 123 of the General Statutes;

(10) simple resolutions addressing organizational matters of each respective house; and

(11) a joint resolution further adjourning the 2021 Regular Session or amending a joint resolution adjourning the 2021 Regular Session to a date certain.

No action was taken during the April and May reconvened sessions; both chambers held non-voting, or skeleton, sessions on April 4 and 6 and again on May 4 and 6. The session was officially adjourned on May 6.

## The Legislative Institution

### New Legislative Commissions

Section 5.13 of the 2021 Appropriations Act ([S.L. 2021-180](#), Senate Bill 105) creates the 18-member Joint Legislative Committee on Access to Healthcare and Medicaid Expansion (Committee), consisting of nine Senators and nine Representatives, with a co-chair to be appointed from each chamber. The Committee is tasked with considering various ways in which access to health care and health insurance can be improved for North Carolinians, including those individuals described in section 1902(a)(10)(A)(i)(VIII) of the Social Security Act (individuals who are under age 65 years, not pregnant, not entitled to, or enrolled for, benefits under part A of title XVIII, or enrolled for benefits under part B of title XVIII, and are not described elsewhere, and whose income does not exceed 133 percent of the poverty line). The Committee is authorized to submit proposed legislation to the members of the Senate and the House of Representatives before the sine die adjournment of the 2021 General Assembly by filing a copy of the proposed legislation with the Office of the President Pro Tempore of the Senate and the Office of the Speaker of the House of Representatives; the Committee terminates upon the sine die adjournment of the 2021 General Assembly.

[S.L. 2021-138](#) (Senate Bill 300) establishes the nine-member Bipartisan North Carolina Legislative Working Group on Criminal Law Recodification (Working Group) to make recommendations to the General Assembly on a streamlined, comprehensive, orderly, and principled criminal code which includes all common law, statutory, regulatory, and ordinance crimes. Of the four Senators in the Working Group, two are to be members of the majority party appointed by the President Pro Tempore and two are to be members of the minority party appointed by the Minority Leader of the Senate; two of the Representatives must be members of the majority party appointed by the Speaker while the other two Representatives must be members of the minority party appointed by the Minority Leader of the House of Representatives; the final member, who is to serve as the chair of the Working Group, must have served at least six years as a member of the General Assembly and will be appointed jointly by the President Pro Tempore and the Speaker. The Working Group is required to solicit public comments and feedback, as well as input from nine specified court-, law enforcement-, and local government-related entities. The working Group is required to meet at least monthly beginning by September 15, 2021, and must establish general principles that provide for at least all the following:

- (1) incorporate existing statutory and common law offenses into GS Chapter 14, harmonizing additions with current Chapter content;
- (2) apply consistent terminology across statutes and define all terminology;
- (3) specify the required mental state or that an offense is a strict liability crime;
- (4) eliminate redundant crimes and multiple punishments for the same conduct;
- (5) simplify offense numbering;
- (6) eliminate or modify unconstitutional provisions to ensure lawfulness;
- (7) eliminate outdated laws; and
- (8) apply consistent, logical offense grading, with advice from the North Carolina Sentencing Policy and Advisory Commission.

The act also sets out required deliverables related to databases of common law crimes and crimes included in the North Carolina General Statutes, crimes created by local ordinances, and crimes created by administrative boards and bodies, as well as reports on common ordinance crimes and

on policy options for addressing regulatory crimes, and any necessary legislation. The Working Group is set to terminate on December 31, 2022.

### **Legislative Research Commission**

[S.L. 2021-29](#) (Senate Bill 586) directs the Legislative Research Commission (LRC) to study the medical issues surrounding lipedema and the impact of this disease on women residing in North Carolina. The act sets out several issues that must be included as a part of the study, including, but not limited to, examining the number of women who have been diagnosed with lipedema over the last five years and the symptoms associated with the disease, as well as those who have been mis- or under-diagnosed in that same time period, and identifying effective therapies for managing the symptoms of lipedema and determining whether the therapies are affordable and readily available within the State. A report is required to be submitted to the 2022 Regular Session of the 2021 General Assembly.

### **Required Studies by Legislative Committee and Commissions**

Section 12.2 of the 2021 Appropriations Act ([S.L. 2021-180](#), Senate Bill 105) requires the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources to study the Department of Environmental Quality's (DEQ) existing fee structure for permitting, compliance, and oversight services in order to identify areas where fee income does not adequately support the services provided. The Committee is also required, for each service that is inadequately funded, to identify the amount of the fee that was or could have been charged; the cost incurred by DEQ in performing the service; and, if applicable, the reason for not charging the fee or for the fee shortfall. A report is required to be submitted to the 2022 Regular Session of the 2021 General Assembly.

[S.L. 2021-182](#) (Senate Bill 183) requires the Joint Legislative Oversight Committee on Justice and Public Safety (Committee) to study whether: (1) using an ignition interlock system as a condition of a limited driving privilege should be expanded to include additional convictions and (2) ignition interlock requirements should apply to limited driving privileges granted pretrial and granted to permit driving during the period of a revocation for refusal to submit to chemical testing. The act also requires studying whether the Division of Motor Vehicles, rather than the courts, should be authorized to grant limited driving privileges and to supervise the use of ignition interlocks. The Committee is required to report before the convening of the 2022 Regular Session of the 2021 General Assembly.

[S.L. 2022-6](#) (House Bill 243) makes a number of changes to statutes governing the Joint Legislative Commission on Governmental Operations. First, the act amends G.S. 120-76 by expanding upon the Commission's powers to also include receiving reports alleging improper activities or matters of public concern listed in G.S. 126-84, which sets out the policy concerning State employees reporting improper government activities. The reports are allowed to be made anonymously and are confidential and not a public record. The act also amends G.S. 120-77 to require each of the Commission's cochairs to designate one Commission staff member to have access to the BEACON/HR payroll system. [S.L. 2021-90](#) (Senate Bill 126) also makes changes impacting the Commission. The act gives the Commission's cochairs the authority to designate subcommittees to conduct hearings, call witnesses, and inquire into any matters properly before the Commission, with members of the subcommittee appointed by the cochairs. The President Pro Tempore of the Senate is to appoint the Senate cochair, and the Speaker of the House is to appoint the House cochair of a subcommittee. The act sets out further requirements for calling a subcommittee meeting, establishing a subcommittee quorum, allowing non-Commission members to be appointed to a subcommittee, use of staff, and payment of subsistence and expenses. The cochairs have the authority to dissolve a subcommittee at any time. The act establishes that a quorum of the Commission is a majority of its members and updates the statutes to refer to Commission cochairs instead of cochairmen.

[S.L. 2021-90](#) (Senate Bill 126) abolishes a number of boards and commissions, including the Legislative Commission on Methamphetamine Abuse.

## Program Evaluation Division

Established in 2007, the stated purpose of the Program Evaluation Division (PED) was to “assist the General Assembly in fulfilling its responsibility to oversee government functions by providing an independent, objective source of information to be used in evaluating whether programs or activities of a State agency, or programs or activities of a non-State entity conducted or provided using State funds, are operated and delivered in the most effective and efficient manner and in accordance with law.”<sup>6</sup> PED was dissolved effective February 26, 2021.<sup>7</sup> The dissolution was carried out in Section 27.2 of the 2021 Appropriations Act ([S.L. 2021-180](#), Senate Bill 105), which repealed G.S. Chapter 143E (North Carolina Measurability Assessment Act of 2016), Article 7C of G.S. Chapter 120 (which established and governed PED) and specified statutes related to PED. The work formerly done by PED is now to be performed by the Joint Legislative Commission on Governmental Operations.

## Redistricting

A task that extended the length of the 2021 session was redrawing the boundaries for the state’s Congressional, House, and Senate districts. Required to be performed once every ten years under the State’s Constitution, this session’s redistricting process was off to a late start due to the delays in collecting census information caused by the impacts of COVID-19. The House Redistricting Committee was chaired by Representative Hall, while the Senate Redistricting Committee was chaired by Senators Daniel, Hise, and Newton. Throughout September, the redistricting committees held a series of public hearings. Terminals where legislators worked on maps were broadcast to the public on the General Assembly’s website and a terminal was made available for public use. The House of Representatives’ districts were set out in House Bill 976 (S.L. 2021-175), which came out of its committee on November 1. The bill was amended on the floor and became law a few days later on November 4. The bill and associated documents, including maps, can be found [here](#). The Senate districts were set out in Senate Bill 739 (S.L. 2021-173). The bill was voted out of committee on November 2 and amended on the floor the next day. The bill became law on November 4. The bill and associated documents, including maps, can be found [here](#). The Congressional districts were delineated in Senate Bill 740 (S.L. 2021-174). The bill was voted out of the Senate’s Committee on Redistricting and Elections on November 1 and became law on November 4. The bill and associated documents, including maps, can be found [here](#).

Legal challenges were soon mounted against each of the maps. In February of 2022, the N.C. Supreme Court upheld the Wake County Superior Court’s decision that all three maps were unconstitutional due to partisan gerrymandering and ordered new districts to be drawn.<sup>8</sup> In response to the ruling, legislators again drafted and adopted three sets of maps, resulting in a new House of Representative map in House Bill 980/S.L. 2022-4 (map and related documents are [here](#)), a Senate map in Senate Bill 744/S.L. 2022-2 (map and related documents are [here](#)) and a Congressional map in Senate Bill 745/S.L. 2022-3 (map and related documents are [here](#)). While the House and Senate maps were approved by the Wake County Superior Court, the court adopted its own map in place of the legislature’s Congressional map.<sup>9</sup> The maps used in the 2022 elections will be the second House and Senate maps that were adopted in 2022 and the court’s Congressional map. Links to all of these maps, as well as to related session and committee audio and video recordings are available on the General Assembly’s website [here](#).

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<sup>6</sup> G.S. 120-36.11.

<sup>7</sup> <https://www.ncleg.gov/PED>, viewed 04/22/22.

<sup>8</sup> *Harper v. Hall*, No. 413PA21 (N.C. Feb. 4, 2022): <https://appellate.nccourts.org/orders.php?t=PA&court=1&id=397836&pdf=1&a=0&docket=1&dev=1> (order). *Harper v. Hall*, \_\_\_ N.C. \_\_\_, 2022-NCSC-17: <https://appellate.nccourts.org/opinions/?c=1&pdf=41183> (full opinion).

<sup>9</sup> *North Carolina League of Conservation Voters v. Hall*, No. 21 CVS 015426 (Wake Co. Sup. Ct. Feb. 23, 2022): <https://www.nccourts.gov/assets/inline-files/22.02.23%20-%20Order%20on%20Remedial%20Plans.pdf?E9mkhJLRatLibqax0vfvwDCYgiunTgIB> (order on remedial plans).

## Major Legislation Enacted in 2021

The 2021 General Assembly enacted a number of significant pieces of legislation, a few of which are listed below. Please note that several bills passed by the General Assembly are discussed later in the Governor's Veto section of this document.

### Education and the Pandemic

[S.L. 2021-8](#) (Senate Bill 387), known as the "Excellent Public Schools Act of 2021," modifies the NC Read to Achieve Program. The act establishes the Early Literacy Program (Program) within the Department of Public Instruction (DPI) with a stated purpose of building early literacy skills for children in the pre-kindergarten program by using the "Science of Reading," a term defined by the act to mean evidence-based reading instruction practices that can be individualized. The act requires DPI to provide a training program for relevant educators and administrators and integrate appropriate resources and assessments for prekindergarten children to implement the Program. This legislation also introduces Individual Reading Plans (IRPs) to address deficiencies in reading development for kindergarten through third grade students through assessments and literacy intervention plans. The law further directs DPI to develop a Digital Children's Reading Initiative to provide free tools and resources, aligned to grade level and with the Science of Reading, for parents, guardians and family members to increase reading proficiency.

[S.L. 2021-4](#) (Senate Bill 220), [S.L. 2021-7](#) (House Bill 82), [S.L. 2021-130](#) (Senate Bill 654) all deal with the reopening and provision of relief to public schools in response to the COVID-19 pandemic. S.L. 2021-4 mandates that all local school administrative units provide in-person instruction to K-12 students for the remainder of the 2020-21 school year, in compliance with certain reopening plan options, while reserving authority for the Governor to order individual units or schools within a unit to close or restrict or reduce operations. S.L. 2021-7 requires every administrative unit to offer a school extension learning recovery and enrichment program following the 2020-21 school year, outside of the instructional school calendar, to kindergarten through twelfth grade students to address learning losses and negative impacts of the pandemic. Among other provisions, S.L. 2021-130 allows for a public school unit in a county that has received a good cause waiver from the mandated school calendar opening and closing dates to use up to 15 remote instruction days or 90 remote instruction hours for that school calendar year when schools are unable to open due to emergency situations, such as severe weather conditions or power failures. The act authorizes all other public school units to use up to five remote instruction days or 30 remote instruction hours in the same manner to meet instructional days and hours requirements. This legislation extends the remote instruction authority to charter schools, innovative schools, regional schools, laboratory schools, and renewal school systems.

[S.L. 2021-184](#) (House Bill 91) enacts new Article 29E to G.S. Chapter 115C, directing the State Board of Education (State Board) to adopt rules governing high school interscholastic athletic activities conducted by public school units. The Article authorizes the State Board to enter into a memorandum of understanding (MOU) with a nonprofit organization for four-year terms to administer and enforce the Article's requirements and the rules adopted by the State Board, subject to audits by the State Auditor, with DPI assigned administration responsibilities if the State Board is unable to enter into an MOU. All public school units with participating schools are required to conduct high school athletic activities in accordance with the State Board's rules as enforced or administered by the administering organization or DPI.

The Appropriations Act, [S.L. 2021-180](#) (Senate Bill 105), includes wide-ranging legislation involving education, with a select few discussed here. Section 6.8 strengthens job readiness of students attending cooperative innovative high schools for careers in retail, customer service, sales, inventory and logistics, while Section 6.14 establishes a temporary program to expand apprenticeship opportunities for high school and young adult apprentices. Section 7.30 expands the powers and duties of the Center for Safer Schools, including providing training, resources, and professional development to students, public school personnel, first responders, social services agencies, members of the community, and others on topics related to school safety, including youth

mental health, incident de-escalation, and incidents of bullying, suicide, substance abuse, and trauma among students and their impact on school climate and safety. Section 7.57 allows administrators and student services personnel who have completed a combined total of at least 30 years of licensed employment to receive a lifetime license. Section 8.7 allows for constituent institutions of UNC to opt to consider students who receive full athletic scholarship as state residents. Section 8.8 codifies the North Carolina Collaboratory, first established in S.L. 2016-94 and now enacted as new Article 31A of G.S. Chapter 116, to facilitate the dissemination of policy and research expertise of UNC and other institutions of higher education within the State for practical use by State and local governments. Section 8A.1 provides for tuition grants for graduates of the North Carolina School of Science and Mathematics or the North Carolina School of the Arts who enroll as full-time students of a UNC constituent institution immediately following graduation. Finally, Section 8A.2 consolidates the administration of need-based scholarships for constituent institutions of UNC and community colleges, with separate reserve funds created for UNC and community colleges.

### **Health and Human Services Changes**

Health and human services law received a great deal of attention during 2021, partly due to the COVID-19 pandemic. The No Patient Left Alone Act, [S.L. 2021-171](#) (Senate Bill 191), codifies patient visitation rights for hospital patients and residents of nursing homes, combination homes, hospice care, adult care and special care units, and residential treatment facilities, requiring licensed facilities to permit patients to receive visitors to the fullest extent permitted under applicable rules, regulations, or guidelines adopted by either the Centers for Medicare and Medicaid Services or the Centers for Disease Control and Prevention, or any federal law. Additionally, the facilities are required to use their best efforts to develop alternate visitation protocols that would allow visitation to the greatest extent safely possible in the event circumstances require complete closure of the facility. The act authorizes a federal agency that finds a facility has violated federally mandated patient visitation rights to issue a warning, followed by imposing a civil fine of at least \$500 for each instance each day the facility is found to be in violation, beginning 24-hours after the warning. Additionally, the legislation requires facilities to provide notice of client visitation rights to the resident and family, when possible, along with contact information for entities tasked with investigating visitation violations. Under the new law, facilities are mandated to allow compassionate care visits, subject to health screenings and infections control procedures.

Clifford's law, [S.L. 2021-145](#) (House Bill 351), requires the Secretary of the Department of Health and Human Services (DHHS) to establish visitation protocols for nursing homes, combination homes, and adult care homes during declared disasters and emergencies that will become effective when the disaster or emergency results in the suspension or curtailment of a facility's normal visitation policy. The act provides minimum requirements for the visitation protocols, including the right of each resident to designate one preapproved visitor and one alternate preapproved visitor, which must be implemented by June 15, 2022. The act also explicitly requires applicable facilities to adhere to the visitation protocols established by the DHHS Secretary.

[S.L. 2021-110](#) (House Bill 96) adds a new requisite for health care providers to obtain written consent from a parent or legal guardian of any individual under 18 years old prior to administering any vaccine that has been granted emergency use authorization and that is not yet fully approved by the FDA. The legislation also expands the authority of immunizing pharmacists as follows. The act permits an immunizing pharmacist to administer a flu vaccine, an FDA-approved COVID-19 vaccine, or a COVID-19 vaccine authorized under an emergency use authorization by the FDA (1) to persons at least ten years of age, with administration by pharmacy interns and pharmacy technicians meeting certain educational qualifications permitted if supervised by an immunizing pharmacist; and (2) to persons at least six years of age, pursuant to a specific prescription order initiated by a prescriber following a physical exam of the patient by the prescriber. The act also adds new authority to permit immunizing pharmacists to dispense, deliver, or administer FDA-approved nicotine replacement therapy, contraceptives, prenatal vitamins, post-exposure prophylaxis medications, glucagon, and prescribed, self-administered injectable medication, subject to specified recordkeeping and reporting requirements.

Other legislative changes to the area of health and human services include the following session laws. [S.L. 2021-61](#) (House Bill 383) enacts a new Article to G.S. Chapter 108A, the Hospital Assessment Act, instituting formulas to be used by DHHS for the calculation of quarterly assessments for both public and private hospitals. Section 9D.13 of the Appropriations Act, [S.L. 2021-180](#) (Senate Bill 105), temporarily extends Medicaid coverage for pregnant women for twelve months postpartum, effective April 1, 2022, until March 31, 2027. [S.L. 2021-77](#) (House Bill 734), among other changes, allows for the use of telehealth during the first and second examination to determine if a respondent will be involuntarily committed due to mental illness if the physician is satisfied to a reasonable medical certainty that the determinations made would not be different if the examination had been done face-to-face.

The Appropriations Act, [S.L. 2021-180](#) (Senate Bill 105), enacts widespread health and human services legislation. Of note, Section 9I.13 mandates that DHHS establish seven regions for regional supervision of child welfare and social services and to begin oversight and support within those regions through State regional staff and the central office team by April 1, 2022, with procurement of physical office space for the regions beginning in March 2023, and full implementation of a regional model, with offices, required by March 1, 2024. Section 9I.15 requires DHHS to resume deployment of the North Carolina Families Accessing Services through Technology (NC FAST) system related to case management for child welfare, with statewide deployment of the component required before October 1, 2022.

A new licensing board, the North Carolina Behavior Analysis Board, is created by [S.L. 2021-22](#) (Senate Bill 103) to oversee the licensure and practice of behavior analysts, assistant behavior analysts, and behavior technicians pursuant to new Article 43 of G.S. Chapter 90. The legislation makes the practice of behavior analysis in violation of the newly enacted Article a Class 2 misdemeanor.

[S.L. 2021-32](#) (Senate Bill 135) concerns the election of anatomical gift donation imprints on a donor's drivers license or identification card. The act adds a new provision to specify that the symbol or statement on a license or identification card issued by the State remains valid until the donor revokes consent by requesting removal of the symbol to the Division of Motor Vehicles. Further, the act addresses donors who made their original election in another jurisdiction, now requiring those donors who apply for a license or identification card in this State to authorize that the symbol be imprinted on the donor's license or identification card issued in North Carolina for the anatomical gift to be valid.

### **Amendments to the Emergency Management Act**

Section 19E.6 of the Appropriations Act of 2021, [S.L. 2021-180](#) (Senate Bill 105), amended the Emergency Management Act regarding emergency declarations. The amendments sunset gubernatorial declarations of a statewide state of emergency at 30 days after issuance if issued without prior concurrence of the Council of State, or 60 days after issuance if the Council of State concurs with the declaration. Concurrence of the Council of State is defined by the act to be a majority consensus and requires the Governor to document contact with and the responses of each Council of State member, which are public record.

[S.L. 2021-35](#) (House Bill 812) further amends the Emergency Management Act to allow a public body that has provided notice of an official meeting to amend the notice to include means whereby the public can access the remote meeting if at least one member of the public body desires to participate remotely after issuance of the notice. The act requires the amended notice to be issued at least six hours prior to the meeting and meet other distribution and posting requirements.

### **Establishing a Regulatory Sandbox and Other Tax Law Changes**

Perhaps the most stimulating legislation relating to finance is [S.L. 2021-116](#) (House Bill 624), known as the Regulatory Sandbox Act. The "regulatory sandbox" permits a person or entity to temporarily test an innovative financial or insurance product or service, making the product or service available to consumers for up to 24 months (though extensions may be granted), without

being subject to certain licensing or other regulatory obligations imposed by state law. The act also establishes the North Carolina Innovation Council to create standards and policy priorities for the program. The Council is charged with reviewing and granting applications to the regulatory sandbox, with admission prohibited that would be against the public interest or unreasonably increase risk to consumers.

The Appropriations Act, [S.L. 2021-180](#) (Senate Bill 105), includes important changes to tax laws. The act reduces the State's personal income tax rate from 5.25% to 4.99% in 2022, with further reductions over a six-year period, making the rate 3.99% after 2026. The State's standard deduction and child deduction are increased. Notably, the State's corporate income tax rate is phased out by the act, from 2.5% to 2.25% in 2025, to 0% in 2029. See Part XLII of the Appropriations Act for further tax provisions.

[S.L. 2021-5](#) (Senate Bill 114) and [S.L. 2021-16](#) (House Bill 279) provide COVID-19 relief measures concerning unemployment insurance and income tax. S.L. 2021-5 enacts a new law to temporarily allow for "back to back" unemployment claims and prevents the unemployment insurance base rate from increasing pursuant to state law for 2021. S.L. 2021-16 exempts various COVID-19 relief payments, defined by the act, from being considered income for purposes of several property tax exemptions, as well as extends the deadline for individuals to request a tax refund for the 2020 calendar year.

### **DOT, Transportation and Motor Vehicle Law Changes**

[S.L. 2021-185](#) (House Bill 165) holds various provisions related to the Department of Transportation (Department) and state motor vehicle laws. Regarding the Department, the act increases the threshold for informal small project bidding for Highway Fund or Highway Trust Fund construction and repair projects and maintenance projects, as well as modifies the Department's responsibilities regarding litter removal and mowing coordination for State-maintained roads. The act also eliminates the requirement for an owner's signature on an owner-retained salvage form to be notarized, now allowing for the signature to be manual or electronic.

Many aspects of motor vehicle dealer licensing are revised in [S.L. 2021-134](#) (House Bill 650), including enacting affirmative defenses for certain disciplinary grounds, and a new requirement to require dealer license plates to be replaced every three years. The act also addresses electronically signed applications for a security interest notation, the effective date of license revocations, and security interests on manufactured home certificates of title.

[S.L. 2021-33](#) (Senate Bill 241) revises the definition of a "modified utility vehicle," restricts where a modified utility vehicle may be operated, and establishes required equipment of a modified utility vehicle. Faculty member Shea Denning has written a blog post on this law, found [here](#). [S.L. 2021-182](#) (Senate Bill 183) makes extensive revisions to laws regarding ignition interlock requirements, including enacting a new law requiring vendors to waive a portion of ignition interlock costs for qualified persons. A more thorough discussion of the act can be found in a blog post written by faculty member Shea Denning, [here](#).

### **Criminal Law Update**

Numerous bills were enacted that made changes to or added to the criminal law or criminal procedure statutes. An extensive discussion of these changes, along with those made to motor vehicle laws, can be found in [this](#) document written by faculty member Brittany Williams.

Additional discussions can be found in blog posts written by School of Government faculty and staff as follows. For discussions of amendments to North Carolina's first appearance process, [S.L. 2021-138](#) (Senate Bill 300, Part XIV) and [S.L. 2021-182](#) (Senate Bill 183, Section 2.5), see Jessica Smith's blog post [here](#), and Tom Thornburg's blog posts [here](#) and [here](#). Additionally, see Tom Thornburg's blog post [here](#) discussing [S.L. 2022-6](#) (House Bill 243), regarding magistrates' limited authority to conduct first appearances. Deeper discussions of the provisions of S.L. 2021-138 and [S.L. 2021-137](#) (House Bill 536), relating to law enforcement agencies and officers, including the enactment of a new statutory duty of a law enforcement officer to intervene to prevent another law

enforcement officer's use of excessive force as well as changes to the laws governing the disclosure of body worn cameras, can be found [here](#) and [here](#), written by Jeff Welty, [here](#) and [here](#), written by Shea Denning, and [here](#), written by Frayda Bluestein. For an overview of changes to expunctions laws made by [S.L. 2021-118](#) (Senate Bill 301) and [S.L. 2021-167](#) (House Bill 761), among others, see [this](#) blog post written by John Rubin. [S.L. 2021-180](#) (Senate Bill 105), the Appropriations Act, contained various provisions related to criminal procedure, including provisions explicitly allowing for remote testimony of lab analysts, discussed in a blog post written by Shea Denning, [here](#). Phil Dixon's blog post [here](#), discusses [S.L. 2021-155](#) (Senate Bill 321), which makes changes to the Controlled Substances Act.

Two new felony offenses relating to the injury of law enforcement officers are created in S.L. 2021-138, an act extensively covered by faculty discussions, noted above. The legislation makes it a Class I felony to resist, delay, or obstruct a public officer in the discharge of an official duty where those actions are the proximate cause of a public officer's serious injury, and if the actions result in the public officer's serious bodily injury a term of art defined by the act, the punishment increases to a Class F felony.

### **Courts and Corrections Changes**

Various legislation addresses the education, training, and qualifications of professionals involved with the court system. [S.L. 2021-146](#) (House Bill 27) adds new education requirements for magistrates, now mandating magistrates to complete annual in-service training of at least 12 hours. [S.L. 2021-136](#) (House Bill 436) requires law enforcement officers to undergo psychological screenings prior to certification, as well as to complete annual education focused on mental health. [S.L. 2021-107](#) (House Bill 312), enacts a new requirement for candidates for and appointees to the office of sheriff to disclose felony convictions, including those expunged, which are constitutional disqualifications for the office of sheriff. [S.L. 2021-180](#) (Senate Bill 105), the Appropriations Act, amends the term of office for appointed district court judges, discussed further in a blog post written by Shea Denning, [here](#).

Other notable changes to the courts arena include those made in [S.L. 2021-47](#) (Senate Bill 255), which enacts a new law that permits judicial officials to conduct remote proceedings so long as the presiding official and all parties and participants can see and hear each other. See Shea Denning's blog post [here](#) for a more thorough discussion of these changes. A discussion of [S.L. 2021-94](#) (House Bill 522), which permits alternate jurors to replace a regular juror after deliberations have begun, and an overview of interim pattern jury instructions for such substitutions, can be found [here](#) and [here](#), written by faculty member Shea Denning.

The area of corrections also saw important revisions and enactments. [S.L. 2021-143](#) (House Bill 608) establishes minimum requirements and standards for the care and treatment of incarcerated women in state prison facilities and local confinement facilities. These provisions cover the care and visitation of persons related to pregnancy, childbirth, and postpartum recovery; inspection of women by facility employees; and access to menstrual products. Finally, [S.L. 2021-138](#) (Senate Bill 300), discussed generously under the Criminal Law Changes section of the Chapter, also revised the statutes governing the state's satellite-based monitoring of sex offenders. Jamie Markham's blog post, [here](#), gives a thorough explanation of those changes.

### **Raise the Age and Juvenile Law Changes**

Extensive juvenile law changes were debated and enacted during this long session, of which three acts are most notable. Juvenile jurisdiction again saw changes during the 2021 legislative session, with [S.L. 2021-123](#) (Senate Bill 207) (1) raising the minimum age for juvenile delinquency and undisciplined jurisdiction from 6 to 10 years old, with limited exceptions, (2) creating a new legal category of children, "vulnerable juveniles," and (3) establishing juvenile consultation services for vulnerable juveniles. The act also provides for extended jurisdiction when a juvenile is committed to a Youth Development Center for certain classes of felonies committed at the age of 16 or 17, as well as granting prosecutorial discretion to decline to transfer low level felonies. Further,

the legislation makes significant changes to court ordered mental health assessments of juveniles. Faculty member Jacquelyn Greene reviews the law extensively in three blog posts, found [here](#), [here](#), and [here](#).

[S.L. 2021-100](#) (House Bill 132) amends laws relating to abuse, neglect, dependency and termination of parental rights (TPR) proceedings. [This](#) blog post, written by faculty member Sara DePasquale, details the act's provisions, among which addresses sibling placement and contact, permanency planning and post-TPR hearings, newly dubbed "modification" hearings, and juveniles aging out of foster care. For a discussion of the law's provisions involving a parent's compliance with medication-assisted treatment, visit Timothy Heinle's blog post, [here](#).

Lastly, [S.L. 2021-132](#) (Senate Bill 693) makes extensive revisions to the Juvenile Code, including creating two separate tracks subsequent to an initial disposition hearing – the review track and the permanency planning hearing track. A detailed summary of the act can be found in a blog post written by faculty member Sara DePasquale, [here](#). For a discussion of the act's provisions granting legislative access to child protective services records, see [this](#) blog post written by Kristi Nickodem. For an overview of the act's provisions barring the prevention of court-ordered visits by a parent following a positive drug screen when the positive test is the sole ground for denial, see [this](#) blog post written by Timothy Heinle. An additional blog post written by faculty member Sara DePasquale, found [here](#), highlights legislative changes related to foster parents, including [S.L. 2021-144](#) (House Bill 769), which codifies the Foster parent's Bill of Rights, as well as provisions from both S.L. 2021-100 and S.L. 2021-132.

Two other acts are worth mentioning that relate to juveniles: S.L. 2021-18 and S.L. 2021-119. [S.L. 2021-18](#) (Senate Bill 113) returns appeals of TPR orders and orders that eliminate reunification as a permanent plan that were combined with a TPR appeal back to the court of appeals from the supreme court. Finally, [S.L. 2021-119](#) (Senate Bill 35) raises the lawful age of marriage from 14 to 16 years old, with 16 and 17 year olds prohibited from lawfully marrying another when a greater than four-year age difference exists.

### **ABC Law Changes**

[S.L. 2021-150](#) (House Bill 890) is the ABC omnibus legislation for the 2021 session, containing extensive changes to alcoholic beverage control laws. A few of the most prominently discussed provisions in that act include: (1) permitting ABC stores to accept online orders and payment for in-person pick up; (2) establishing the Spirituous Liquor Advisory Council; (3) revising hours distilleries can sell spirituous liquor distilled at the distillery; (4) imposing further limitations and requirements for consumer tastings under a spirituous liquor special event permit; (5) authorizing counties and cities to adopt an ordinance designating an outdoor social district for the consumption of alcoholic beverages sold by permittees, and an ordinance authorizing permittees to use extended premises for outdoor possession and consumption; and (6) establishing new regulations for alcohol consumables.

[S.L. 2021-117](#) (House Bill 366) revises distillery permits to allow permittees to sell, deliver and ship spirituous liquor at wholesale or retail to consumers in other states or nations, except jurisdictions that require reciprocity.

### **Delayed Municipal Elections**

The COVID-19 pandemic delayed the 2020 decennial Census and subsequent data release. Due to the delayed release of 2020 Census data, the General Assembly decided to postpone regular municipal elections scheduled for 2021 for which less than the entire jurisdiction is eligible to vote for candidates for one or more offices, providing for delayed elections to be conducted at certain dates in 2022 instead. [S.L. 2021-56](#) (Senate Bill 722) provides for delayed municipal election dates in March and April of 2022, with relevant municipalities required to review and revise electoral districts following the release of the 2020 Census data by November or December of 2021, subject to public hearing requirements. Section 20.6A of [S.L. 2022-6](#) (House Bill 243) further postpones delayed municipal elections until May and July of 2022.

## **Decriminalization of Local Ordinances and Other Local Government Law Changes**

[S.L. 2021-138](#) (Senate Bill 300) makes sweeping changes to prohibit criminal or infraction penalties for certain local ordinance violations, while enacting new procedural requirements that must be followed before a local government can enact an ordinance with a criminal penalty for those still allowed under the new law. The legislation also provides new defenses against criminal violations of local ordinances. Consideration of these provisions of S.L. 2021-138 by SOG faculty members can be found [here](#), written by Jeff Welty, and [here](#), written by Frayda Bluestein.

[S.L. 2021-124](#) (Senate Bill 314) covers various aspects of fiscal management related to local governments. A significant piece of this legislation enacts new Article 32 to G.S. Chapter 160A, establishing processes for cities in financial distress to transition out of that distress on its own or with the assistance from or under the direction of the Local Government Commission, providing for options and outcomes that include continuing operations, merging, or dissolving.

[S.L. 2021-191](#) (Senate Bill 473) enacts new G.S. 14-243.2, prohibiting elected local officials from soliciting or receiving financial gain from their elected position by means of intimidation, undue influence, or misuse of local employees. Effective January 1, 2022, the act makes a violation of the new statute a Class H felony, excluding financial gain received for acting in an official capacity or with the approval of the elected official's respective governing board. Additionally, this legislation enacts new G.S. 14-243.3, making it a Class 1 misdemeanor for a public official to knowingly participate in making or administering a contract with any nonprofit for which that public official is associated, effective January 1, 2022. The new statute permits the public official to record a recusal with the board before the governing board can enter into or administer such a contract. SOG faculty member Kristina Wilson has written two blog posts concerning new G.S. 14-243.3 that can be found [here](#) and [here](#).

[S.L. 2021-117](#) (House Bill 366) amends G.S. Chapter 160D to mandate municipal inspection departments implement remote inspection procedures to determine construction compliance with the State Building Code, subject to criteria and procedures developed by the Insurance Commissioner. [S.L. 2021-121](#) (House Bill 489) contains various changes to the State Building Code and other development regulations. Among the act's provisions is Section 5, specifying that when a development project contains an approved erosion control plan for the entire development, a local government cannot require a separate erosion plan for development of individual residential lots within that development that disturb less than one acre.

## **Energy Solutions and Carbon Neutrality Goal**

[S.L. 2021-165](#) (House Bill 951) received an enormous amount of attention in committees and on the chamber floors. The act directs the North Carolina Utilities Commission (Commission) to take reasonable steps to achieve a 70% reduction in emissions of carbon dioxide emitted in the state from electric generating facilities owned or operated by electric public utilities from 2005 levels by 2030, and to achieve carbon neutrality by 2050. The Commission (1) is authorized to approve performance-based regulation of electric public utilities upon application; (2) is authorized and directed to establish rules for securitization of costs associated with early retirement of subcritical coal-fired electric generating facilities; and (3) is directed to initiate a docket to establish the rates to be paid by the electric public utilities in connection with a one-time option to modify certain existing power purchase agreements (PPA) with eligible small power producers.

## **Changes to Solid Waste Landfill Rules and Stormwater Permitting**

[S.L. 2021-153](#) (Senate Bill 60) directs for the Solid Waste Landfill Rules, defined as 15 identified administrative rules adopted by the Environmental Management Commission (Commission) on July 9, 2020, to become effective September 16, 2021, except that the Commission and the Department of Environmental Quality (DEQ) must implement the Rules pursuant to the act's four requirements, described as follows, and the Commission adopt rules to amend the Solid Waste

Landfill Rules consistent with the described directives. The act directs an owner or operator of a construction and demolition debris landfill facility (C&DLF) or a municipal solid waste landfill facility (MSWLF) to submit a written notice of intent to close the final unit, with a copy of the notice in the facility's operating record, to the Division of Waste Management (Division) 180 days prior to beginning closure of the final permitted land unit, and requires submission of changes to the closure plans to the Division as a permit modification. The act's parameters prohibit requiring the owner and operator to submit a permit application for the Division to issue a permit for closure and post-closure care of a landfill, and directs the Division to issue a permit that incorporated the plans identified in the notice of closure. The law sets forth eleven components that must be included in an application for an amendment to a permit for a C&CDLF or MSWLF submitted solely for a change in ownership or corporate structure. Finally, the act mandates elimination of all references to "interim maximum allowable concentrations" and "IMACs."

[S.L. 2021-158](#) (Senate Bill 389) provides wide-ranging legislation related to the DEQ and the Department of Natural and Cultural Resources. One significant piece is the revision of the stormwater program, now requiring a permit holder, or their designee, of new stormwater permits and stormwater permits that are reissued due to transfer, modification, or renewal to submit an annual certification of the project's conformance to permit conditions, with electronic submissions accepted. The act replaces requirements related to permit transfer applications. Additionally, the act allows for low density stormwater permittees issued permits prior to January 1, 2017, who have exceeded a permitted built-upon area limit to apply for a permit modification to the current level, and revokes low density stormwater certifications and approvals issued prior to September 1, 1995, with the built-upon area to be considered as existing development, with any future development required to comply with state law, as amended by the act.

### **New Laws and Amendments Related to Wildlife and Agricultural Commodities**

[S.L. 2021-160](#) (House Bill 181) contains several provisions relating to the Wildlife Resources Commission (WRC) and licenses issued by WRC. Effective December 1, 2021, the law makes it a Class 2 misdemeanor to place bait for the purpose of intentionally interfering with the lawful taking of wildlife, with subsequent convictions punishable as Class 1 misdemeanors. In preparation of the possibility of an outbreak of chronic wasting disease (CWD), this legislation authorizes WRC to declare a wildlife emergency in the event it determines that a CWD outbreak in the State constitutes a significant threat to deer and other cervid species, allowing WRC to request additional funding for immediate investigation, containment, and eradication of the outbreak. The act also establishes a wildlife control technician certification, and provides for half-priced lifetime sportsman licenses for residents that are at least 50 but less than 70 years of age.

[S.L. 2021-176](#) (Senate Bill 66) disapproves the Cervid Excretion Rule, 15 N.C.A.C. 10B .0201, instead requiring WRC to revise and implement the Cervid Excretion Rule pursuant to the act's implementing directive. The act requires prohibiting the possession or use of any substance or material that contains or is labeled as containing any excretion collected from a cervid for the purpose of taking or attempting to take, attracting, or scouting wildlife. Excludes labeled synthetics; natural substances collected by a hunter from a legal harvest; labeled natural substances collected by an NC Department of Agriculture and Consumer Services (DACS) licensed facility; labeled natural deer urine products containing excretions from NC DACS licensed facilities; and labeled natural deer urine products containing excretions from facilities determined to be free of chronic wasting disease (CWD), compliant with federal CWD protocols and a federally approved CWD herd certification program who participates in additional WRC herd management requirements.

Applicable to offenses committed on or after December 1, 2021, [S.L. 2021-78](#) (Senate Bill 605) gives magistrates the power, in misdemeanor and infraction cases involving State forest rule offenses under Articles 74 (Acquisition and Control of State Forests and State Recreational Forests) and 75 (Protection and Development of Forests; Fire Control) of GS Chapter 106, to accept written appearances, waivers of trial or hearing, and pleas of guilty or admissions of responsibility, and to enter judgment and collect the fines or penalties and costs. This legislation also amends G.S. 14-

135, increasing the punishment for timber larceny or damage to a Class G felony, as well as requiring a defendant convicted under the statute to make restitution to the timber owner at a rate of three times the value of the timber involved, applicable to offenses committed on or after December 1, 2021.

## The Governor's Veto

Governor Cooper exercised his veto power 18 times since the start of the long session; this breaks the record for the most vetoed bills in one year of 15 that was set by Governor Perdue in 2011 and tied by Governor Cooper in 2018 (when including the 2018 extra session). None of the vetoes have been overridden. Only two override attempts were made; both originated in the Senate and did not receive the number of votes needed to override the vetoes. In order to override a veto, each chamber must vote to override the veto by a three-fifths vote of those present and voting. Neither chamber holds a veto-proof majority for the 2021-22 biennium. This section provides a brief overview of each of the bills vetoed in 2021.

### Return to In-Person School Instruction

The first bill vetoed by Governor Cooper was [Senate Bill 37](#). The act would have required local school administrative units to give K-12 students the option of in-person instruction for the remainder of the scheduled 2020-21 school year. The act also set out requirements that were to be met for in-person instruction related to social distancing and health precautions, student reassignments, modifying teacher and staff work requirements for those identified as high-risk from COVID-19, and authority to make day-to-day decisions on whether to shift schools or classrooms from in-person to remote instruction due to COVID-19 exposures resulting in insufficient school personnel or required student quarantines. Finally, the act encouraged local boards of education to coordinate with vaccine providers to facilitate COVID-19 vaccination events for frontline K-12 school-based employees. In his veto message, Governor Cooper stated, “Students learn best in the classroom and I have strongly urged all schools to open safely to in-person instruction and the vast majority of local school systems have done just that. However, Senate Bill 37 falls short in two critical areas. First, it allows students in middle and high school to go back into the classroom in violation of N.C. Department of Health and Human Services and C.D.C. health guidelines. Second, it hinders local and state officials from protecting students and teachers during an emergency. As I have informed the Legislature, I would sign the bill if these two problems are fixed. As written, the bill threatens public health just as North Carolina strives to emerge from the pandemic.”<sup>10</sup> The Senate attempted to override the veto on March 1, but the vote failed.

### Concealed Carry Changes

The second bill vetoed by the Governor was [Senate Bill 43](#), known as “The Religious Assembly Security and Protection Act of 2021.” The act would have allowed individuals with a concealed handgun permit to carry a handgun, outside of school hours, in a place of religious worship that was also a school property so long as the property was not owned by a local board of education or county commission, was not a public or private institution of higher education, and there was not a notice prohibiting carrying a concealed handgun on the premises. The act also would have allowed a person with a concealed handgun permit who is an employee of a law enforcement agency (excluding sworn law enforcement officers) to carry a concealed handgun into a law enforcement agency when the person is designated in writing by the head of the law enforcement agency in charge of the facility and the person carries written proof of the valid designation. In his brief veto message, the Governor

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<sup>10</sup> Governor's Veto message for Senate Bill 37, available here: <https://webservices.ncleg.gov/ViewBillDocument/2021/777/0/S37-BD-NBC-8733>

stated, “For the safety of students and teachers, North Carolina should keep guns off school grounds.”<sup>11</sup> No attempt was made to override the veto.

### **Abortion Prohibition Expansion**

[House Bill 453](#) would have prohibited abortions when the abortion was being sought because of the actual or presumed race or sex of the unborn child or because of the presence or presumed presence of Down syndrome (current law only includes sex of the unborn child). The act would also create a duty for the physicians to confirm, before performing an abortion, that the woman was not seeking an abortion for any of those prohibited reasons. In his veto, Governor Cooper stated, “This bill gives the government control over what happens and what is said in the exam room between a woman and her doctor at a time she faces one of the most difficult decisions of her life. This bill is unconstitutional and it damages the doctor-patient relationship with an unprecedented government intrusion.”<sup>12</sup> An override attempt was not made.

### **Unemployment Changes**

[Senate Bill 116](#) would have made several changes related to unemployment. First, the act would have withdrawn the State from the Federal Pandemic Unemployment Compensation (FPUC) and Mixed Earners Unemployment Compensation (MEUC) agreements that provided additional payments to unemployment insurance claimants through September 6, 2021. Second, if the Division of Employment Security, Department of Commerce, did not cease administering payments under the FPUC and MEUC programs by August 14, 2021, then \$250 million would have been appropriated from federal Child Care and Development Block Grant funds received pursuant to the American Rescue Plan Act of 2021, to the Division of Child Development and Early Education for subsidized childcare for eligible children. Third, the act would have changed what is required of individuals receiving unemployment payments by no longer allowing an individual to satisfy one of the weekly job contacts by attending a reemployment activity offered by a local career center and by adding the requirement that the individual’s record of their work search efforts also include whether any of the potential employers have made an interview request and, if so, their response; individuals receiving an interview request by an employer offering suitable work would have been required to respond within 48 hours, schedule and appear for an interview, and attend any reemployment activity associated with the interview request if required by an employer. Failure to satisfy these interview requirements without good cause three or more times during a benefit year would have disqualified the individual for any remaining benefits. Governor Cooper vetoed the bill, stating that, “Unemployment is declining with more people getting vaccinated and into the workforce as North Carolina has strengthened work search requirements for those receiving benefits. The federal help that this bill cuts off will only last a few more weeks and it supplements North Carolina’s state benefits, which are among the stingiest in the country. Prematurely stopping these benefits hurts our state by sending back money that could be injected into our economy with people using it for things like food and rent. I support strong efforts to make more quality childcare available and to provide business with funds for hiring bonuses and the bill falls short on both of these.”<sup>13</sup> No attempt was made to override the veto.

### **N.C. Charter Schools Advisory Board**

[House Bill 729](#) would have expanded who can hold a residency license to also include charter school teachers. The bill would also have made changes to the North Carolina Charter Schools

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<sup>11</sup> Governor’s Veto message for Senate Bill 43, available here: <https://webservices.ncleg.gov/ViewBillDocument/2021/52210/0/S43-BILL-NBC-9011>.

<sup>12</sup> Governor’s Veto message for House Bill 453, available here: <https://webservices.ncleg.gov/ViewBillDocument/2021/52354/0/H453-BD-NBC-9048>.

<sup>13</sup> Governor’s Veto message for Senate Bill 116, available here: <https://webservices.ncleg.gov/ViewBillDocument/2021/52446/0/S116-BD-NBC-9054>.

Advisory Board by making the State Superintendent of Public Instruction or the Superintendent's designee a voting member of the Board, removing one of the members appointed by the State Board of Education who is not a current member of the State Board of Education but is a charter school advocate in the State, and by staggering the terms of Advisory Board members. Governor Cooper vetoed the bill, saying, "The State Board of Education is constitutionally and statutorily charged with administering children's education in state public schools, including charter schools. It is critical that the Board have both of their appointments to the Charter School Advisory Board to carry out its constitutional duties."<sup>14</sup> No attempts were made to override the veto.

### **Hotel Safety**

[House Bill 352](#) expanded upon current requirements to also require an innkeeper to provide suitable lodging accommodations for persons accepted as guests in a motel, recreational vehicle park, campground, or other similar transient occupancy (defined as the rental of an accommodation by an inn, hotel, motel, recreational vehicle park, campground, or similar lodging to the same guest or occupant for fewer than 90 consecutive days). The act exempted transient occupancies from the entirety of G.S. Chapter 42, which governs landlords and tenants. It specified that an agreement related to a transient occupancy does not create a tenancy or a residential tenancy unless expressly provided in the agreement. The Governor vetoed the act saying, "This legislation is not the right way to ensure safety in hotels. It removes legal protections and allows unnecessary harm to vulnerable people, including families with children, who have turned to hotels and motels for housing in a time of need."<sup>15</sup> No attempt has been made to override the veto.

### **Pistol Purchase Permit**

[House Bill 398](#) repealed requirements related to obtaining a pistol purchase permit. The Governor vetoed the bill, stating, "Gun permit laws reduce gun homicides and suicides and reduce the availability of guns for criminal activity. At a time of rising gun violence, we cannot afford to repeal a system that works to save lives. The legislature should focus on combating gun violence instead of making it easier for guns to end up in the wrong hands."<sup>16</sup> An override has not been attempted.

### **Donor Privacy**

[Senate Bill 636](#) would have prohibited nonprofits from disclosing the identity of any person who donated money or tangible goods to the nonprofit if the person notified the nonprofit in writing at or before the time of the donation not to disclose the donor's identity. The court would have been allowed to award attorney's fees to the prevailing parties in cases where this confidentiality was breached. The act also explicitly prohibited public servants, legislators, and officers or employees of the State or any of its political subdivisions from using or disclosing confidential information gained in the course of their official activities or by reason of their official position in the corporation. Governor Cooper vetoed the bill, stating, "This legislation is unnecessary and may limit transparency with political contributions."<sup>17</sup> No attempt has been made to override the veto.

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<sup>14</sup> Governor's Veto message for House Bill 729, available here:

<https://webservices.ncleg.gov/ViewBillDocument/2021/52831/0/H729-BD-NBC-9134>.

<sup>15</sup> Governor's Veto Message for House Bill 352, available here:

<https://webservices.ncleg.gov/ViewBillDocument/2021/52934/0/H352-BD-NBC-9147>.

<sup>16</sup> Governor's Veto message for House Bill 398, available here:

<https://webservices.ncleg.gov/ViewBillDocument/2021/52935/0/H398-BD-NBC-9148>.

<sup>17</sup> Governor's Veto message for Senate Bill 636, available here:

<https://webservices.ncleg.gov/ViewBillDocument/2021/53016/0/S636-BD-NBC-9162>.

### **Prohibiting Public Schools from Promoting Specified Topics**

[House Bill 324](#) would have prohibited public schools from compelling students, teachers, administrators, or other school employees to affirm or profess belief in the following concepts:

- (1) one race or sex is inherently superior to another race or sex;
- (2) an individual, solely by virtue of his or her race or sex, is inherently racist, sexist, or oppressive;
- (3) an individual should be discriminated against or receive adverse treatment solely or partly because of his or her race or sex;
- (4) an individual's moral character is necessarily determined by his or her race or sex;
- (5) an individual, solely by virtue of his or her race or sex, bears responsibility for actions committed in the past by other members of the same race or sex;
- (6) any individual, solely by virtue of his or her race or sex, should feel discomfort, guilt, anguish, or any other form of psychological distress;
- (7) a meritocracy is inherently racist or sexist;
- (8) the United States was created by members of a particular race or sex for the purpose of oppressing members of another race or sex;
- (9) the United States government should be violently overthrown;
- (10) particular character traits, values, moral or ethical codes, privileges, or beliefs should be ascribed to a race or sex or to an individual because of the individual's race or sex;
- (11) the rule of law does not exist, but instead is a series of power relationships and struggles among racial or other groups;
- (12) all Americans are not created equal and are not endowed by their Creator with certain unalienable rights, including life, liberty, and the pursuit of happiness; and
- (13) governments should deny to any person within the government's jurisdiction the equal protection of the law.

Schools would have been required to notify the Department of Public Instruction and make general information available online before providing instruction on those concepts in educational or professional settings; engaging speakers, consultants, diversity trainers, and other persons for the purpose of discussing these concepts; or engaging speakers, consultants, diversity trainers, and other persons who have previously advocated for these concepts. Governor Cooper vetoed the bill, saying that “The legislature should be focused on supporting teachers, helping students recover lost learning, and investing in our public schools. Instead, this bill pushes calculated, conspiracy-laden politics into public education.”<sup>18</sup> No votes have been taken to override the veto.

### **Increased Rioting Penalties**

[House Bill 805](#) would have made several changes to the prohibition on rioting, including increasing the penalties for rioting or inciting a riot that causes property damage, serious bodily injury, or death and would have allowed for treble damages to be awarded for resulting property damage or personal injury. The act also increased the penalty for assaulting emergency personnel, which was expanded upon to now include members of the North Carolina National Guard, during a riot or in an area where a state of emergency exists. Finally, the act would have required pretrial release conditions for rioting and looting offenses to be determined by a judge in accordance with the timeframe and additional requirements set in the act. The Governor vetoed the bill saying, “People who commit crimes during riots and at other times should be prosecuted and our laws provide for that, but this legislation is unnecessary and is intended to intimidate and deter people

<sup>18</sup> Governor’s Veto message for House Bill 324, available here: <https://webservices.ncleg.gov/ViewBillDocument/2021/53068/0/H324-BD-NBC-9175>.

from exercising their constitutional rights to peacefully protest.”<sup>19</sup> No attempt was made to override the veto.

### **NCGA Leadership Approval of Consent Judgments/Settlement Agreements**

[Senate Bill 360](#) would have required the Speaker of the House and the President Pro Tempore of the Senate to jointly approve before entering a consent judgment or proposed settlement agreement when a dispute, claim, or controversy is challenging a statute or State constitutional provision and the Speaker and the President Pro Tempore have jointly intervened on behalf of the NCGA, or are otherwise jointly named in their official capacities as parties. Governor Cooper vetoed the bill, saying, “This bill is unconstitutional and unwise, and would prevent the Attorney General from doing his job to protect the people of North Carolina.”<sup>20</sup> No override votes have been taken.

### **State of Emergency Changes**

Under current law, a gubernatorially or legislatively declared state of emergency remains in place until it is rescinded by the issuing authority. [House Bill 264](#) would have set gubernatorially or legislatively declared states of emergency that applied statewide (defined as any emergency area applicable to two-thirds or more of the counties in the State) to expire seven calendar days after issuance unless the Council of State concurred; with concurrence the declaration of emergency would expire 45 calendar days from the date of issuance, unless the General Assembly extends the declaration of emergency by enactment of a general law. If the Council of State did not concur or if the General Assembly did not enact an extension, the Governor would have been prohibited from issuing a substantially similar declaration of emergency arising from the same events that formed the basis for the initial state of emergency. The act also required the Governor to obtain the Council of State’s concurrence for each declaration of emergency when the Governor declared more than one state of emergency based on the same emergency that would apply in total to more than two-thirds of the State’s counties. Similar requirements were set out for instances in which the Governor must act because of insufficient local control of a gubernatorially or legislatively declared state of emergency.

The act also would have allowed the Secretary of Health and Human Services and the Secretary of Environmental Quality to order persons in control of property uses that have been declared to present a statewide imminent hazard to abate the hazard for a period of no more than seven calendar days; notification of the Governor and concurrence of the Council of State would be necessary for extensions of up to 30 days at a time. Finally, the act would have given the State Health Director the authority to order persons quarantined or isolated for a period of no more than seven calendar days. If the order was statewide (defined as two-thirds or more of the counties in this State), then the Director was allowed to move the court for extensions of the order after notifying the Governor and obtaining concurrence of the Council of State.

The Governor vetoed the act, stating, “North Carolina is emerging from a global pandemic with lives saved and a strong economy because of effective statewide measures to protect public health under the Emergency Management Act. Critical decisions about stopping deadly diseases, or responding to any other emergency, should stay with experts in public health and safety, not a committee of partisan politicians. We must be able to act quickly and thoroughly when deadly diseases, hurricanes, or any other dangers threaten people’s lives and jobs. An emergency needs decisive, quick and comprehensive action, not bureaucracy and politics.”<sup>21</sup> No attempt has been made to override the veto.

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<sup>19</sup> Governor’s Veto message for House Bill 805, available here: <https://webservices.ncleg.gov/ViewBillDocument/2021/53069/0/H805-BD-NBC-9176>.

<sup>20</sup> Governor’s Veto message for Senate Bill 360, available here: <https://webservices.ncleg.gov/ViewBillDocument/2021/53136/0/S360-BD-NBC-9191>.

<sup>21</sup> Governor’s Veto message for House Bill 264, available here: <https://webservices.ncleg.gov/ViewBillDocument/2021/53311/0/H264-BD-NBC-9215>.

### **Absentee Ballot Changes**

[Senate Bill 326](#) would have reduced the amount of time allowed for returning absentee ballots by requiring that they be received by the county board of elections by 7:30 p.m. on the day of the election (or later if the time of poll closing was extended by the State Board of Elections); current law allows counting of absentee ballots received no more than three days after the election by 5:00 p.m. The act would also have required each county board of elections and the State Board to publish on its website and on any materials sent to voters the date by which absentee ballots are available for voting as well as the date by which a completed absentee ballot request form is required to be received by a county board of elections. Finally, the act would have created a requirement for county boards of elections to report to the State Board of Elections on a number of issues related to absentee ballots, such as the number of absentee ballots that have been spoiled due to the voter voting in person at a one-stop voting site and the number of outstanding absentee ballots. This information was then required to be posted daily on the State Board of Elections website. Governor Cooper vetoed the bill, saying, “The legislature ironically named this bill ‘The Election Day Integrity Act’ when it actually does the opposite. Election integrity means counting every legal vote, but this bill virtually guarantees that some will go uncounted.”<sup>22</sup> No attempt has been made to override the veto.

### **Ban on Private Donations for Conducting Elections**

[Senate Bill 725](#) would have prohibited the State Board of Elections, county boards of elections, and county boards of commissioners from accepting private monetary donations for conducting elections or temporarily employing individuals. In his veto message, Governor Cooper stated, “Elections are fundamental to our democracy and in 2020, grants from nonpartisan nonprofits were needed for necessities such as masks, single-use pens and other protective equipment so voters stayed safe during the pandemic. The legislature should start properly funding elections boards to ensure accessible, safe, and secure elections every time, which would end the need for grants.”<sup>23</sup> No override votes have been taken.

### **Choice of Energy Service**

[House Bill 220](#) would have prohibited cities and counties from adopting ordinances that prohibit, or have the effect of prohibiting, the connection, reconnection, modification, or expansion of an energy service based upon the type or source of energy to be delivered to an end-user of the energy service. Energy service was defined as the energy source that a consumer may choose to use to heat or cool buildings, produce hot water, operate equipment, operate appliances, or any other similar activities, where the energy source is derived from one or more of a variety of sources such as specified types of gas or other liquid petroleum products and that is delivered to the consumer by an authorized entity or electricity that is derived from one or more sources of electric generation and is delivered to the consumer by an authorized entity and the distribution of the electricity occurs according to the established territorial rights. Other changes made in the act would have amended public records law to exclude from public records specified types of public security information, and would have allowed the Utilities Commission to adopt procedures allowing lessors providing water and sewer services to lessees in certain dwellings to charge for the cost of the service. Governor Cooper vetoed the bill, stating, “This legislation undermines North Carolina’s transition to a clean energy economy that is already bringing in thousands of good paying jobs. It also wrongly strips local authority and hampers public access to information about critical infrastructure that impacts the health and well-being of North Carolinians.”<sup>24</sup> No override votes have been taken.

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<sup>22</sup> Governor’s Veto message for Senate Bill 326, available here:

<https://webservices.ncleg.gov/ViewBillDocument/2021/53600/0/S326-BILL-NBC-9328>.

<sup>23</sup> Governor’s Veto message for Senate Bill 725, available here:

<https://webservices.ncleg.gov/ViewBillDocument/2021/53602/0/S725-BILL-NBC-9329>.

<sup>24</sup> Governor’s Veto message for House Bill 220 available here:

<https://webservices.ncleg.gov/ViewBillDocument/2021/53606/0/H220-BILL-NBC-9330>.

## Salvage Vehicle Sales

[House Bill 294](#) would have allowed a dealer to sell, without inspection, a used vehicle that was issued a salvage certificate of title if the dealer has no knowledge of alterations or repairs made to the vehicle after the issuance of the salvage certificate of title and before retail sale of the vehicle and the dealer discloses to the purchaser that the dealer has not performed an inspection. In his veto message, Governor Cooper stated, “This legislation removes a layer of protection for consumers when buying a vehicle.”<sup>25</sup> No override votes have been taken.

## Primary Elections Date Change

Under [House Bill 605](#), the date of the 2022 primary election would have changed to June 7. The Governor vetoed the bill, saying, “This bill is an additional attempt by Republican legislators to control the election timeline and undermine the voting process. The constitutionality of congressional and legislative districts is now in the hands of the North Carolina Supreme Court and the Court should have the opportunity to decide how much time is needed to ensure that our elections are constitutional.”<sup>26</sup> An override has not been attempted.

## Mask Wearing in Schools

[Senate Bill 173](#) would have allowed parents to elect for their child to not wear a face covering on school property. Parents would have been required to notify the school of their decision but they were not required to give a reason or any certification of the child's health or education status. The act prohibited schools from treating students without face coverings differently than students with face coverings in classroom and course assignments, non-academic portions of the school day, extracurricular activities, student discipline, and academic grading. Governor Cooper provided the following justification for vetoing the bill. “I have encouraged local boards to lift mask mandates and they are doing it across the state with the advice of health officials who see that COVID metrics are declining and vaccinations are increasing. The bipartisan law the legislature passed and I signed last year allows local boards to make these decisions for their own communities and that is still the right course. Passing laws for political purposes that encourage people to pick and choose which health rules they want to follow is dangerous and could tie the hands of public health officials in the future.”<sup>27</sup> The Senate attempted to override the veto, but it failed by a vote of 27-22.

## The 2022 Session

The General Assembly is currently scheduled to return for the short session on Wednesday, May 18, 2022, at noon. According to the adjournment resolution (Res. 2022-2), only the following matters may be considered during the short session:

(1) bills directly and primarily affecting the State budget, including the budget of an occupational licensing board for fiscal year 2022-23, provided that the bill must be submitted to the Bill Drafting Division of the Legislative Services Office no later than 4:00 p.m. Monday, May 9, 2022, and must be introduced in the House of Representatives or filed for introduction in the Senate no later than 4:00 p.m. Thursday, May 26, 2022;

(2) bills: a. proposing an amendment or amendments to the North Carolina Constitution and containing no other matter, b. proposing an amendment or amendments to the North Carolina

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<sup>25</sup> Governor’s Veto message for House Bill 294, available here: <https://webservices.ncleg.gov/ViewBillDocument/2021/53607/0/H294-BILL-NBC-9331>.

<sup>26</sup> Governor’s Veto message for House Bill 605, available here: <https://webservices.ncleg.gov/ViewBillDocument/2021/53640/0/H605-BD-NBC-9357>.

<sup>27</sup> Governor’s Veto message for Senate Bill 173, available here: <https://webservices.ncleg.gov/ViewBillDocument/2021/53816/0/S173-BD-NBC-9460>.

Constitution and containing no other matter other than statutory conforming changes to implement such bills; c. solely making statutory and transitional changes to implement bills under a.;

(3) bills and resolutions introduced in 2021 and having passed third reading in 2021 in the house in which introduced; received in the other house in accordance with Senate Rule 41 or House Rule 31.1(h), as appropriate, and not disposed of in the other house by tabling, unfavorable committee report, indefinite postponement, or failure to pass any reading; and which do not violate the rules of the receiving house;

(4) bills and resolutions implementing the recommendations of the following:

a. study commissions, authorities, and statutory commissions authorized or directed to report to the 2022 Regular Session;

b. the General Statutes Commission, the Courts Commission, or any commission created under Chapter 120 of the General Statutes that is authorized or directed to report to the General Assembly;

c. the House Ethics Committee;

d. select committees; or

e. the Joint Legislative Ethics Committee or its Advisory Subcommittee. A bill authorized by this subdivision must be submitted to the Bill Drafting Division of the Legislative Services Office no later than 4:00 p.m. Monday, May 9, 2022, and must be filed for introduction in the Senate or introduced in the House of Representatives no later than 4:00 p.m. Wednesday, May 25, 2022;

(5) any local bill that has been submitted to the Bill Drafting Division of the Legislative Services Office by 4:00 p.m. Monday, May 9, 2022; is introduced in the House of Representatives or filed for introduction in the Senate by 4:00 p.m. Tuesday, May 31, 2022; and is accompanied by a certificate signed by the principal sponsor stating that (i) no public hearing will be required or asked for by a member on the bill, (ii) the bill is noncontroversial, and (iii) the bill is approved for introduction by each member of the House of Representatives and the Senate whose district includes the area to which the bill applies;

(6) bills providing for the selection, appointment, or confirmation, as required by law, including the filling of vacancies of positions for which the appointees were elected by the General Assembly upon recommendation of the Speaker of the House of Representatives, President of the Senate, or President Pro Tempore of the Senate;

(7) bills providing for action on gubernatorial nominations or appointments;

(8) any matter authorized by joint resolution passed by a two-thirds majority of the members of the House of Representatives present and voting and by a two-thirds majority of the members of the Senate present and voting. A bill or resolution filed in either house under the provisions of this subdivision shall have a copy of the ratified enabling resolution attached to the jacket before filing for introduction in the Senate or introduction in the House of Representatives;

(9) a joint resolution authorizing the introduction of a bill pursuant to (8) above;

(10) any bills primarily affecting any State or local pension or retirement system, provided that the bill has been submitted to the Bill Drafting Division of the Legislative Services Office no later than 4:00 p.m. Monday, May 9, 2022, and is introduced in the House of Representatives or filed for introduction in the Senate no later than 4:00 p.m. Thursday, May 26, 2022;

(11) joint resolutions and simple resolutions authorized for introduction under Senate Rule 40.1 or House Rule 31;

(12) bills returned by the Governor with objections under Section 22 of Article II of the North Carolina Constitution, but solely for the purpose of considering overriding the veto upon reconsideration of the bill;

(13) bills responding to actions related to litigation concerning the districts for Congressional, State House, State Senate, judicial, municipal, county, and other elected officials' actions and any other litigation challenging the legality of legislative enactments;

(14) any bills relating to election laws;

(15) bills to disapprove rules under G.S. 150B-21.3;

(16) bills providing for impeachment pursuant to Article IV of the North Carolina Constitution or Chapter 123 of the General Statutes; and

(17) a joint resolution further adjourning the 2021 Regular Session, amending a joint resolution adjourning the 2021 Regular Session, or adjourning the 2021 Regular Session sine die.

Ch. Res. 2022-2 also allows the Speaker of the House or the President Pro Tempore of the Senate to authorize committees or subcommittees to meet during the interim between sessions to (1) review matters related to the State budget for 2021-23 fiscal biennium; (2) prepare reports, including revised budgets; or (3) consider any other matters as the Speaker of the House of Representatives or the President Pro Tempore of the Senate deems appropriate. A conference committee is allowed to meet in the interim upon approval by the Speaker of the House of Representatives or the President Pro Tempore of the Senate. A list of the bills that made it through the crossover deadline (excluding those that are exempt from the deadline) can be found here on the North Carolina General Assembly's website: <https://www.ncleg.gov/documentsites/legislativepublications/Legislative%20Analysis%20Division/Crossover/Crossover%20List%202021.pdf>.

*Christine B. Wunsche  
Caitlin Little*