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Agenda

Norma Houston	• Emergency Management
Trey Allen	• Liability Limitation/COVID-19; PDDs
Mark Botts	• Medicaid Transformation
Jacqui Greene	• Juveniles and Jails
David Owens	• Land Use and Planning
Bob Joyce	• Elections
Christine Wunsche	• Legislative Forecast

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Materials

Collected Legislative Summaries

- <https://lrs.sog.unc.edu/lrs/legsumms/2020>

Coates' Canons Blog

- <https://canons.sog.unc.edu/>

Emergency Management *Norma Houston*



COVID-19
Vetoes



Legislation would have allowed the following to resume operations:

- Skating rinks and bowling alleys (S 599)
- Gyms, health clubs, and fitness centers (H 594; H 806)
- Restaurants and bars (H 536)
- Amusement parks, gaming and establishments with video and arcade games, fairs, carnivals, and reception and party venues (H 258)

No Veto Overrides



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Public Health
Face Masks



Exempts from prohibition against wearing masks or hoods in public masks worn for the purpose of "ensuring the physical health or safety of the wearer or others"

Wearer must remove mask if requested by law enforcement at traffic stops or during criminal investigation with reasonable suspicion or probable cause

G.S. 14-12.11(6)

Expires August 1, 2020 (S.L. 2020-3 (S 704) § 4.3)

~~Expires August 1, 2020~~ (S.L. 2020-93 (S 232))

Exception now permanent law



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STATE OF
EMERGENCY


State of
Emergency
Electronic
Publication

Council
Declares
State of
Emergency


Emergency restrictions and prohibitions imposed under local state of emergency declaration take effect only when:

- In writing
- Signed by authorized official
- Electronically published
 1. On jurisdiction's website (if it has one)
 2. In WebEOC


G.S. 166A-19.31(d)
S.L. 2020-83 (H 593) §11.7



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COVID-19
Relief Funding




\$150M initial CRF allocation to counties [S.L. 2020-4](#) (H 1043)

\$150M additional allocation to counties [S.L. 2020-80](#) (H 1023)

- Spending requirements are the same
- Must share 25% with municipalities
- Counties and municipalities separately liable for misspending funds
- Spending violations subject to clawback or reduction of other state funds
- Local government officers, officials, or employees who violate requirements are subject to civil action and held personally liable to reimburse State

CRF Guidance: [NC Pandemic Recovery Office \(NCPRO\)](#)



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YOU ARE
why we're
HERE

Resources

KEEP CALM
WE'RE
HERE TO HELP

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Resources | Microsites | NC Emergency Management | Legislative Updates

NC Emergency Management

Legislative Updates

EMERGENCY MANAGEMENT

Hurricane Dorian and Florence Information

Laws and Authorities

Sample Documents

Legislative Updates

Publications

Blog

Related Links

Joint Legislative Emergency Management Oversight Committee

Committee legislative page, including committee membership, link to committee website, and meeting e-notification sign-up

2020 Legislative Update

- JLEM Legislative Summary 2020
- New Law Requires Electronic Publication of Local State of Emergency Declarations (Coates' Carvers' blog post, July 7, 2020)

[SOG Emergency Management Microsite](#)

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Liability Limitation and PDDs
Trey Allen

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Liability Limitation: COVID-19 Claims S.L. 2020-89 (H118)

- Provides limited liability protection to **persons** for any act or omission alleged to have led to contraction of COVID-19



- Immunity limited to **negligence claims**



- **Person** includes "government; governmental subdivision, agency, or instrumentality"

- **Covered Period:** Applies to claims **arising** on or after 2 July 2020 and no later than 180 days after expiration or rescission of EO 116 (10 March 2020)

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Liability Limitation: COVID-19 Claims S.L. 2020-89 (H118)

- Requires **persons** – including local governments – to provide **reasonable notice** of actions taken to reduce risk of COVID-19 transmission on premises
- Preserves limited immunity previously granted to local governments by [S.L. 2020-3 \(S704\)](#)



- Doesn't affect **Workers' Compensation** claims

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Personal Delivery Devices

[S.L. 2020-73 \(S 739\)](#)

Personal Delivery Device Pilot (PDD)



- 1 Dec. 2020 - Businesses may use **PDDs** in pedestrian areas and on streets and highways, subject to important conditions.
- **Local Regulation**
 - 1 Dec. 2020 - Local governments may regulate time/place of **PDD** operation to keep streets and sidewalks safe.
 - 1 Dec. 2022 - Local governments may ban operation of **PDDs**.

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Questions?



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Medicaid Transformation *Mark Botts*

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Let the Show Begin!

- “Medicaid Transformation” (S.L. 2015-245) was
 - Due to begin on November 1, 2019, but
 - Delayed until a budget was enacted with necessary funding and program authority
- S.L. 2020-88 (S 808), effective July 1, 2020, authorizes implementation of new system for managing and paying for the cost of health care for Medicaid and NC Health Choice enrollees--\$15 billion.
 - Medicaid covers healthcare costs for qualifying low-income individuals—approximately 2 million as of February 2019.
 - NCHC covers children ages 6-18 in households with income between 133% and 210% of FPL—appx. 106,333, Feb 2019.
- Medicaid transformation must begin by July 1, 2021.

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Medicaid Transformation

- Roughly 1.6 million Medicaid and NC Health Choice enrollees will move from a *fee-for-service* to a *managed care* system of payment for healthcare services.
- Fee-for-service—the state pays health care providers directly for each covered service provided to a Medicaid enrollee.
- Managed care—the state contracts with insurance companies who are paid a pre-determined set rate per person.
 - Managed Care Organization (MCO)—Insurance company manages, coordinates, and pays for physical and mental health care needs of enrollees in a manner that keeps costs within the per-person rate
 - Prepaid Health Plan (PHP)—because the MCO is “pre-paid” (paid in advance) a set, contractually agreed upon fee for each Medicaid and NCHC enrollee, the insurance plan is called a “prepaid health plan.”
 - Provider network—Services will be provided through a network of health care providers who contract with the MCO to provide services to PHP enrollees. (Appx. 20,000 Medicaid providers in FY 2017-18)

We Already Have A Managed Care System

- NC’s public mental health authorities (local management entities) already perform managed care functions for Medicaid mental health, intellectual and developmental disability, and substance use disorder services (“MH,IDD,SUD” or “behavioral health/IDD”) Hence, the LMEs are called LME-MCOs.
- With Medicaid Transformation:
 - Some LME enrollees will be moved to the private MCOs who will manage both the physical and mental health care needs of these enrollees—“integrated care”
 - Enrollees with more serious MI, severe SUD, IDD, and certain other designations (G.S. 108D-40) will continue to have LME/MCOs manage their care
 - LME/MCOs become responsible for managing the physical healthcare needs of these enrollees—“integrated care”
- Two kinds of PHPs—“standard plans” and “tailored plans”

The Next Act

Implementation

- Beneficiary engagement: open enrollment, plan selection, enrollment broker
- Formulate capitation rates and submit to CMS for approval
- Complete provider contracting (health plans and providers) and analyze provider network adequacy
- Test data, analytics, and reporting system functionality

S 808 authorizes a tribal entity to be an MCO (PHP)

Resources

- NC DHHS website:
<https://medicaid.ncdhhs.gov/transformation>
- County “playbook” (fact sheets, guides, educational materials, population descriptions):
<https://medicaid.ncdhhs.gov/counties/county-playbook-medicaid-managed-care/county-playbook-readiness>
- Fiscal Research Division, Medicaid and NC Health Choice
<https://www.ncleg.gov/documentsites/committees/JointAppropriationsHHS/2019%20Session/02-27-2019/Medicaid%20NCHC%20Intro%20Base%20Budget.pdf>

Questions?



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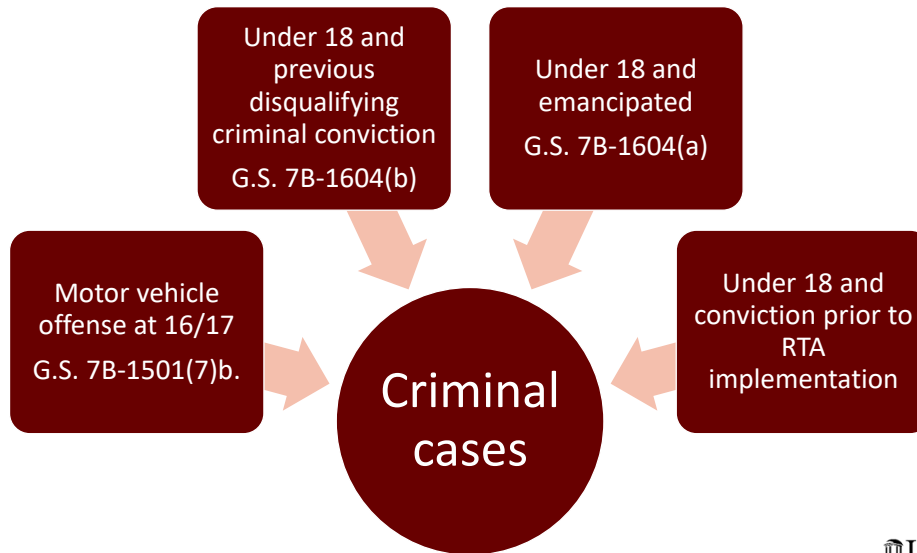
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Juveniles and Jails
Jacqui Greene

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Removal of All Minors from Jails



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S.L. 2020-83, §8

Minors with criminal cases who would have been held in jail must be held in juvenile detention as of August 1, 2020

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Shift to Juvenile Detention – Under 18 &

- Held pretrial pursuant to criminal charges (must be moved to jail at 18)
- Criminal sentence on misdemeanor offense (including DWI)
- Sanctions imposed as part of adult probation
 - At sentencing or in response to a violation
- Minor held in contempt of court

Estimated Impacts

- NC Sentencing and Policy Advisory Commission projects need for 23 new secure juvenile detention beds statewide
- New capacity in development through renovation of current facilities and in collaboration with local law enforcement who have juvenile detention-compliant space

Questions?



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Land Use and Planning
David Owens

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Coverage

Chapter 160D Updates

Farm Bill

Regulatory Reform Bill

Utility Related Bill with Land Use Impacts

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Chapter 160D Developments

- New Effective Date
- 2019 Legislation Integrated
- Modest Clarifications and Technical Corrections

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Chapter 160D -- Original Effective Date

- Effective date of Jan. 1, 2021
- General Statutes Commission directed to study and report to 2020 General Assembly legislation to make necessary adjustments prior to effective date:
 - Integrate Part I into Part II
 - Incorporate other 2019 amendments to affected statutes
 - Make other technical, clarifying, corrective amendments
- Allow time for cities and counties to make conforming ordinance amendments

Chapter 160D -- Effective Date

COVID Stop-gap/Insurance Bill

If GSC bill not adopted, Ch. 160D is effective 1/1/21 without other 2019 amendments being incorporated

S.L. 2020-3 (S. 704) enacted on May 4, 2020

- 1) Delayed Ch. 160D effective date to 8/1/21 to allow time for adoption of GSC bill in 2021 session
- 2) Authorize immediate use of incorporation of state/federal maps by reference
- 3) Understanding that change in effective date to be repealed if GSC bill adopted in 2020

Chapter 160D -- Effective Date

General Statutes Commission

- Final report and bill approved in May
- Implementing bill: S. 720
- Enacted: **S.L. 2020-25, effective June 19, 2020**



GENERAL STATUTES COMMISSION

REPORT TO THE
2020 REGULAR SESSION
of the
2019 GENERAL ASSEMBLY
OF NORTH CAROLINA
ON
INCORPORATING LAND-USE LAWS ADOPTED IN 2019
INTO CHAPTER 160D OF THE GENERAL STATUTES AS
REQUIRED BY S.L. 2019-111

MAY 7, 2020

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Chapter 160D -- New Effective Date

- Repeals delay created in COVID stopgap bill
- Makes Ch. 160D effective immediately – June 19, 2020
- Adds six months for local conforming amendments
Can be done now, but must be done by 7/1/21
- No change in date for having an adopted plan to retain zoning authority (7/1/22)

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Chapter 160D Effective Date

- Practical Effect
- For an individual city or county:
 - Ch. 160D becomes fully effective (and Ch. 153A/160A provisions repealed) when:
 - it updates its development regulations **OR**
 - on July 1, 2021
 - Whichever happens first

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Chapter 160D -- Integrates 2019 Legislation

Integrates Part I of original bill into Part II (160D)

Part I amendments to Ch. 153A/160A became effective in July 2019. Adds these to appropriate 160D provisions

- No third party down-zoning
- Conditions on conditional zoning/SUPs
- Permit choice amendments – multiple permits, permits on hold, definitions (most in GS 143-755)
- Vested rights refinements – rewrite of 160D-108, add 160D-108.1
- Judicial review – limit estoppel claims, attorney fees, direct appeal of some claims

https://www.sog.unc.edu/sites/www.sog.unc.edu/files/reports/2019_0500_PZLB28_v8.pdf

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Chapter 160D Integrates 2019 Legislation

- Also integrates other 2019 enacted legislation
 - H. 675 – No regulation of minimum house size in zoning or subdivision regs, limit on mandates for burial of existing power lines, building code amendments
 - H. 131 – Official map act repeal
 - S. 313 – Clarify performance guarantees relative to improvements required in plat approvals

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Chapter 160D -- Clarifications

- Allow LUP as well as comprehensive plan to qualify for the plan required to retain zoning authority
- City zoning must be citywide, county partial zoning still allowed (but no 640-acre minimum)
- Local permit approvals may last longer than one year
- Specify type of hearings required – legislative, quasi-judicial, or administrative

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Chapter 160D Clarifications

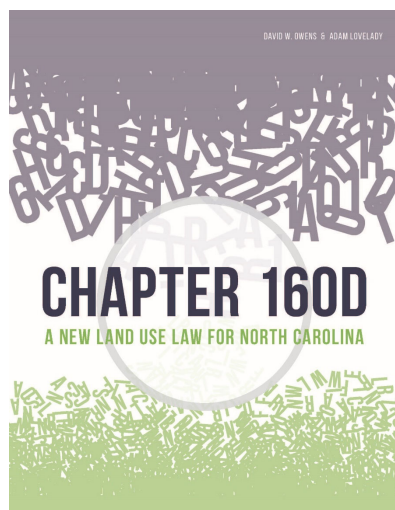
Reinsert inadvertently omitted statutes

- County may require funds for streets in ETJ
- Receivership for dilapidated houses in cities
- 10 year enforcement S/L for nonconformities
- No restrictive covenants for family care homes

Correct cross-references

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Chapter 160D



Additional Resources:

Blog post

<https://canons.sog.unc.edu/chapter-160d-now-effective/>

Website

nc160D.sog.unc.edu

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2020 Farm Bill

S.L. 2020-18 (S. 315)

Adds hunting, fishing, and equestrian activities to "agritourism" that is exempt from county zoning

Does not add shooting ranges, as was included in 2019 version of the Farm Bill

Cannot require permit to provide catering services if catering business is on bona fide farm

Farm sign can be 3' x 3' and can be on any property owned or leased by owner or lessee of the farm

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Regulatory Reform Bill

S.L. 2020-74 (H. 308)

Adds Farm Bill amendments to Ch. 153A to Ch. 160D

Does not include provisions in 2019 version of bill on zoning of temporary event venues, manufactured home set-up, or aquaculture in flood hazard areas

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Utility Related

S.L. 2020-61 (H. 873)

Allow accessory dwelling unit to use same sewer line connection as primary dwelling

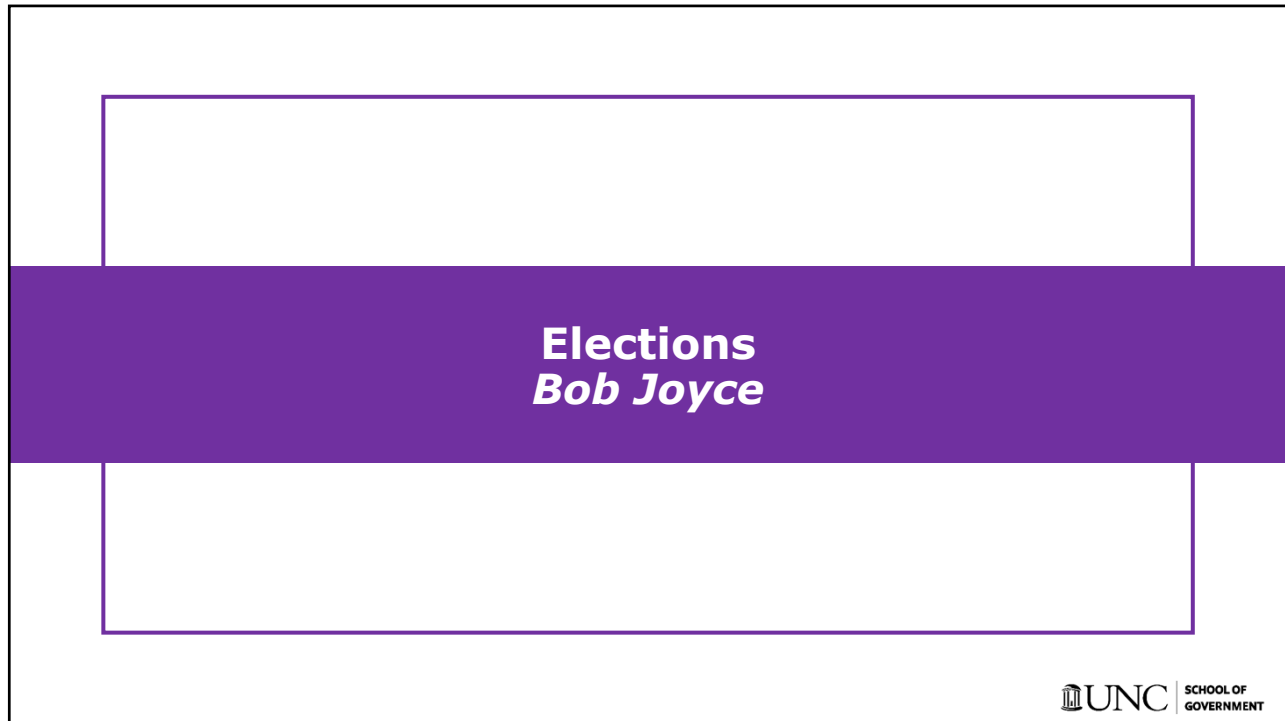
Set time for collection of system development fees at application for building permit rather than at plat recordation

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Questions?



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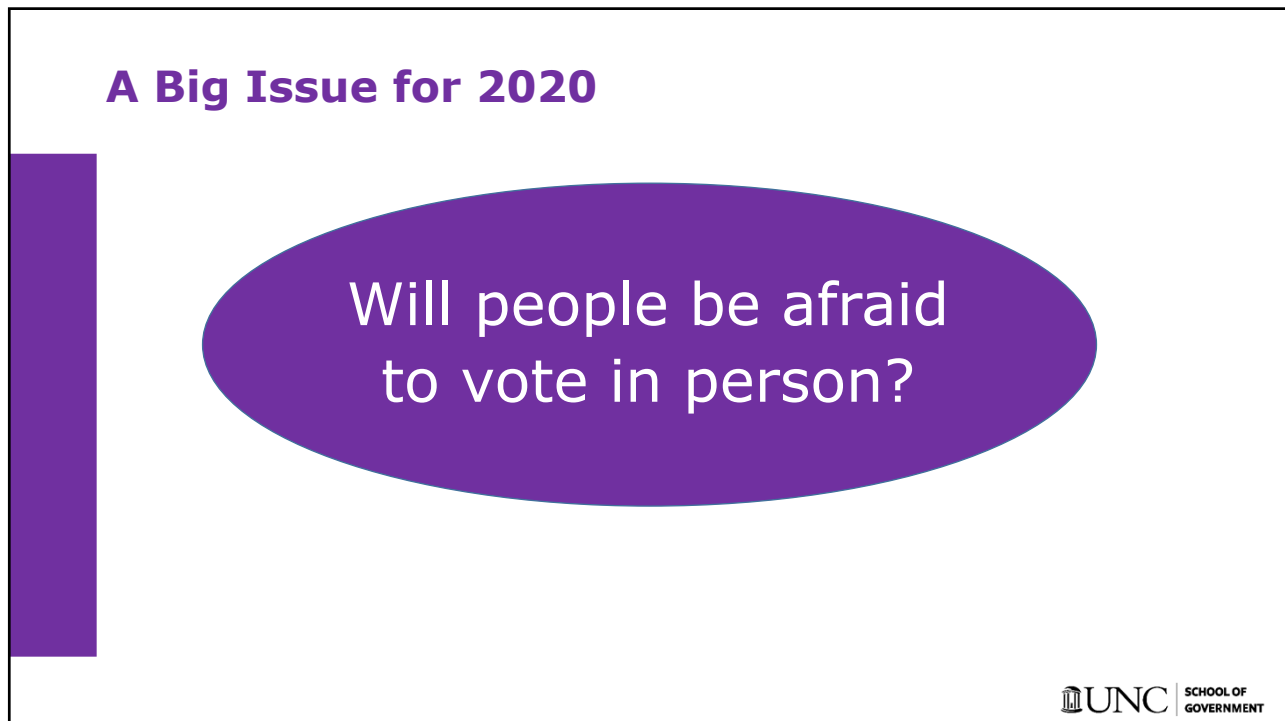


Elections
Bob Joyce

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This slide features a purple horizontal band across the middle containing the text "Elections" in bold and "Bob Joyce" in italics. The slide is framed by a thin black border, and there are two empty rectangular boxes above and below the purple band. The UNC School of Government logo is in the bottom right corner.

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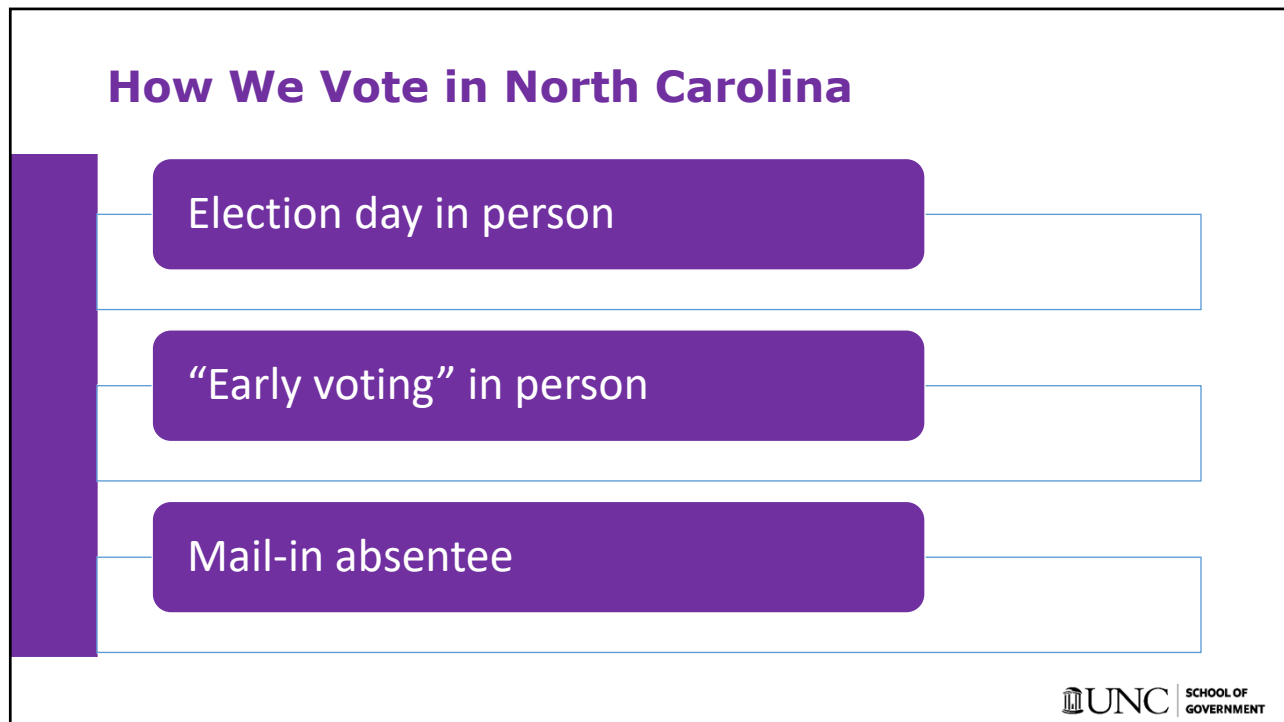
A Big Issue for 2020

Will people be afraid
to vote in person?

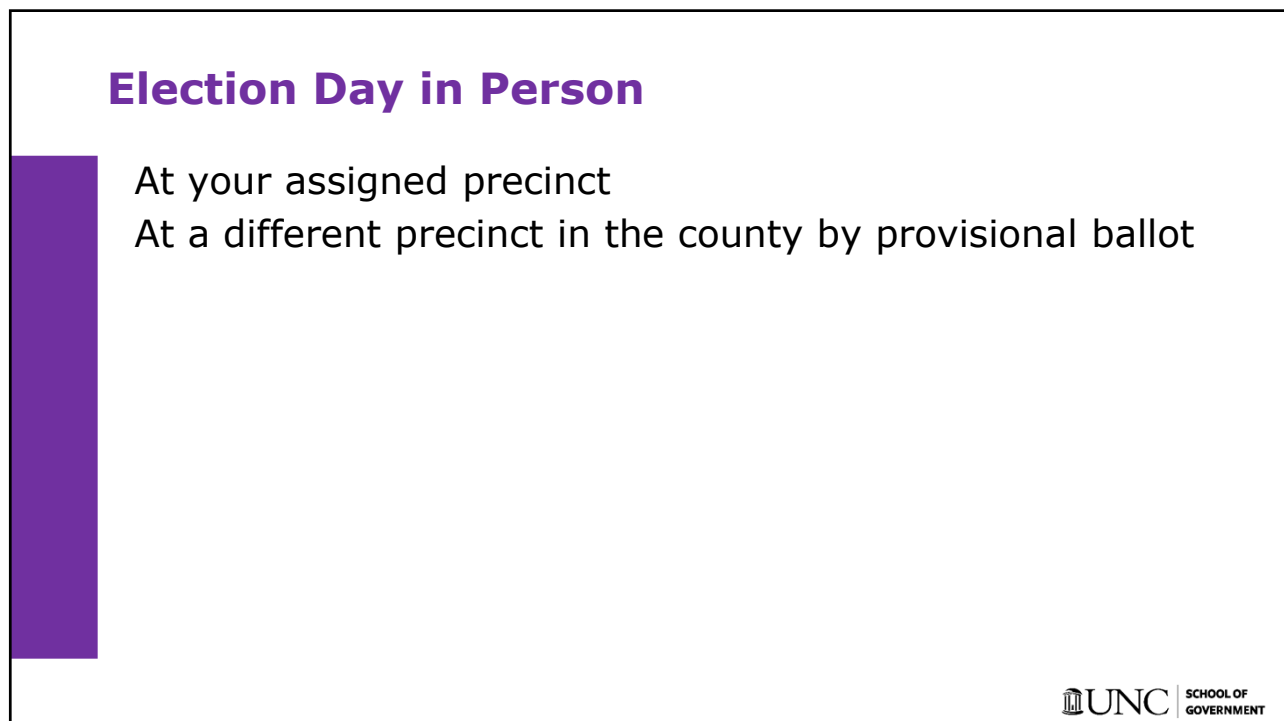
UNC SCHOOL OF GOVERNMENT

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Election Day in Person

- 2020:
 - no change for the voter
 - efforts to ensure adequate and safe staffing

How We Vote in North Carolina

Election day in person

“Early voting” in person

Mail-in absentee

“Early Voting” in Person

- “Early voting” is actually absentee voting
- It doesn’t feel like it, but it is
- 2020: no changes

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How We Vote in North Carolina

Election day in person

“Early voting” in person

Mail-in absentee

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Mail-In Absentee

Now we get to the 2020 changes
(or pretty soon)

History of Absentee Voting

1917

History of Absentee Voting

- Needed an excuse
- will be absent from the county on election day
- illness or disability

History of Absentee Voting

- Voter by mail asked for an application
- Elections folks by mail sent an application
- Voter by mail sent the filled-out application back
- Elections folks ruled on the application
- Elections folks sent the ballots
- Voter marked the ballots and by mail sent them back
- Whew

History of Absentee Voting

1973

At CBE, fill out application and ballots at same time
"One stop"

1999

No excuse needed

Satellite locations for one-stop near election day

One-stop, no excuse, satellite absentee voting=
"Early voting"

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History of Absentee Voting

2007

Same-day registration and voting at early voting sites

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History of Mail-In Absentee Voting

- One witness enough
- Must be notarized
- Application and ballot at same time
- Notary requirement removed
- 2013 Two witnesses or notary

How Mail-In Voting Works

How Mail-In Voting Works

Get request form

Return the request form

Get ballots

Mark ballots/certificate

Send the whole thing back

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Get Request Form

- Traditionally: mailed to voter on request
- Recent times: Available on-line to be printed out
- 2020: Can be emailed to the voter
- 2020: New on-line web portal to be available

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Return Request Form

- Traditionally: mailed in or hand-delivered
- 2020: Can be emailed to CBE
- 2020: Voter can do the whole thing by the web portal

Get Ballots

- CBE sends ballots
- Also sends envelope with application and certificates for voter and witness to sign
- 2020: bar code on envelope so voter and CBE can track

Mark Ballots and Certificate

- 2020: Only one witness required (for 2020 only)

Send it Back

- Mail
- Fed Ex, etc.
- In person
- Must be received by 5 pm on election day (or be postmarked by then and received no more than three days after)

2020 Changes

- One witness sufficient on mail-in absentee ballot
- Web portal for requesting mail-in absentee ballots
- Email OK for requesting mail-in absentee ballots
- Bar code on mail-in ballot envelope to permit tracking

- Loosening requirements for staffing precincts
- Wider latitude for bipartisan assistance teams

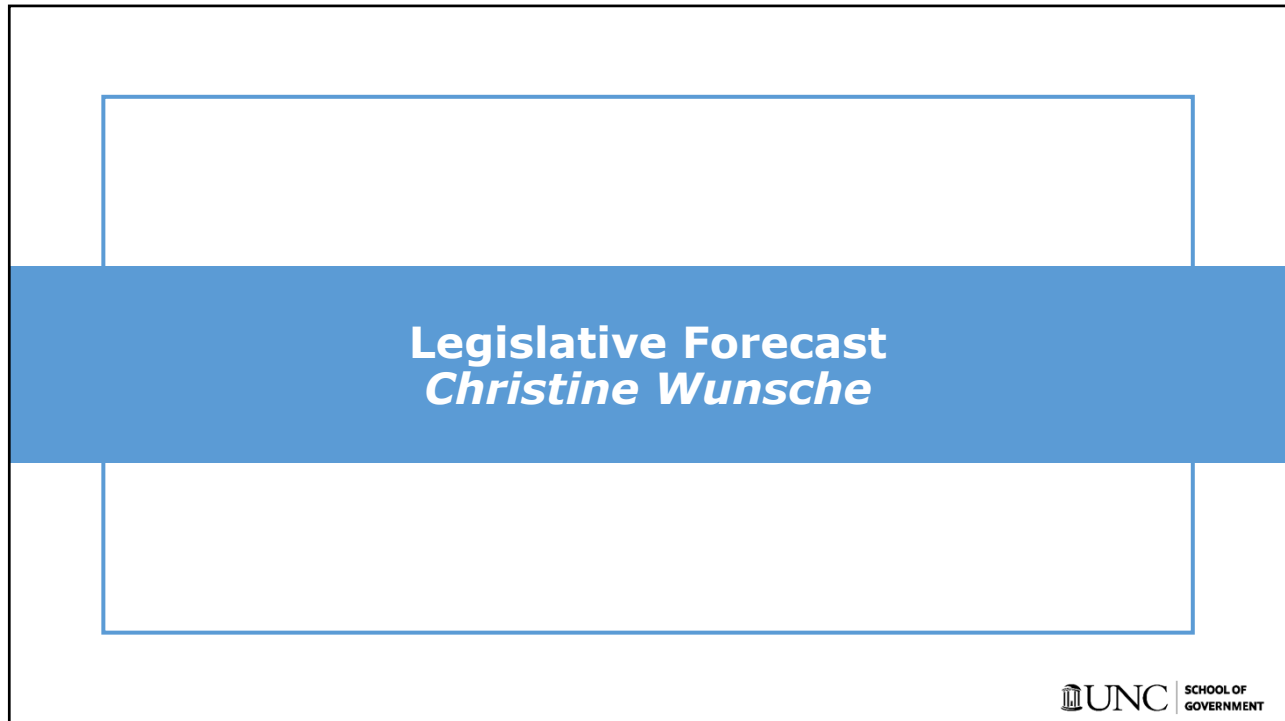
- \$ for counties to get ready

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Questions?



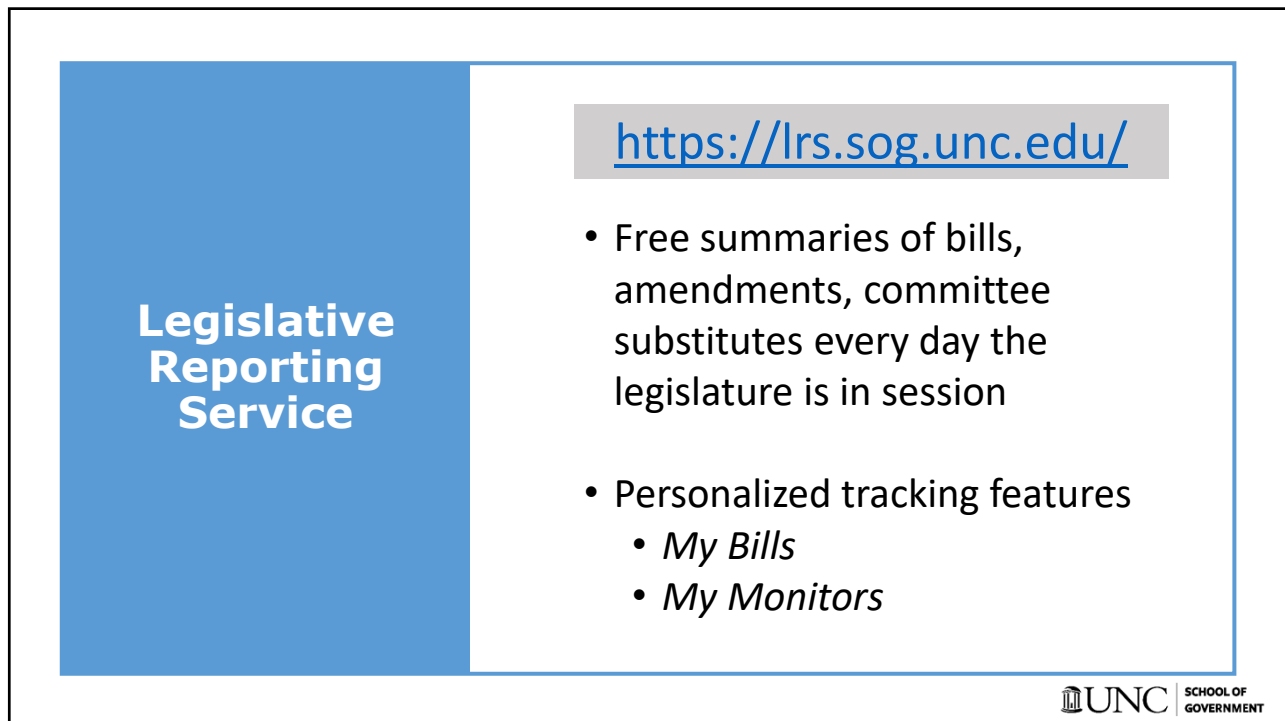
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Legislative Forecast
Christine Wunsche

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Legislative Reporting Service

<https://lrs.sog.unc.edu/>

- Free summaries of bills, amendments, committee substitutes every day the legislature is in session
- Personalized tracking features
 - *My Bills*
 - *My Monitors*

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Materials

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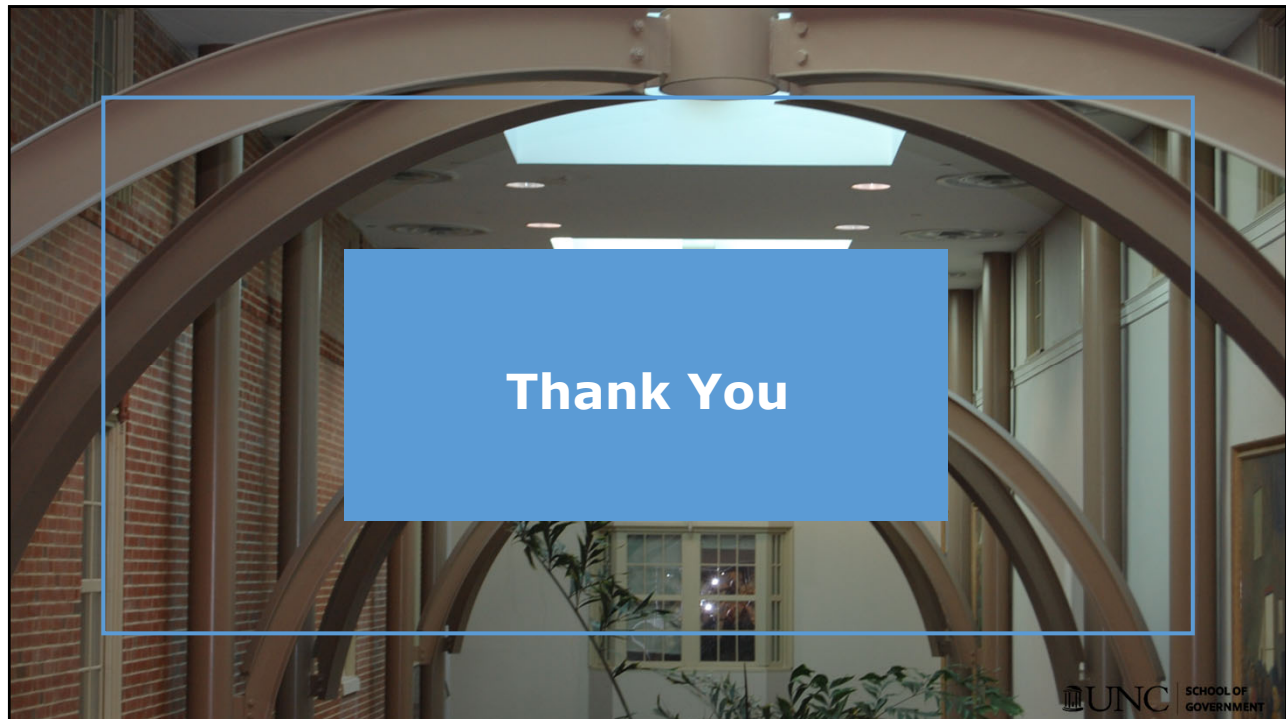
COVID-19 Resource Site

- <https://www.sog.unc.edu/resources/microsites/coronavirus-covid-19>

Legislative Reporting Service

- <https://lrs.sog.unc.edu/>

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