



# AICPA mid-year state legislative session summary



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## Executive summary

Dear State Society Chief Executive Officers, Deputy Chief Executive Officers, and Government Relations Staff,

Thank you for welcoming me to the CPA community. It's been a pleasure working with you throughout this year's state legislative sessions. The AICPA State Regulatory and Legislative Affairs team strives to continuously provide subject matter expertise and to be a helpful partner to state CPA societies on various advocacy issues. As a result of a very busy session, the team developed the following mid-year legislative session summary that will be followed by a year-end resource reviewing policy trends and outcomes that will look ahead to what we can expect in 2022.

Over the last few months, we've encountered legislation that challenged or expanded the scope of the CPA practice. Although there has been an uptick in occupational licensing issues in 2021, the backbone of the team's work is and will continue to be, the adoption of provisions of the Uniform Accountancy Act (UAA) and the modernization of state accountancy statutes. The team continues to focus on the adoption of key UAA items (i.e. CPA firm mobility, CPE reciprocity, and the adoption of the AICPA Code of Conduct), and as a result, will continue to position the profession for success and longevity.

In addition to continuous work on the UAA, we saw trends over the last six months that can be summed up into key issue buckets – occupational licensing, tax on services, contract monitoring and cannabis legalization. We also saw key areas emerge as future potential challenges – threats to CPA independence rules via non-compete bills and exposing the risk of litigation and liability to CPAs through false claim acts.

The logistical churn on bills was high this year, but politically, we witnessed a political science experiment in most state houses. Most, if not all, legislative issues within jurisdictions were exasperated through the public health emergency in this country. State capitols took the health emergency as an opportunity to limit public engagement, resulting in a less transparent policymaking process. At the same time, we saw tension between legislative and executive branches rise with each passing month – especially among governors who were granted great executive authority during the pandemic. We also saw impatience among legislators and the public, who demanded quick and effective changes.

Throughout this report we dig deeper into the issues at the forefront of legislative issues impacting the profession's agenda. Many of these issues will not be a surprise to you, but we hope the situational awareness of how states are approaching these issues will provide useful context. The new trends provide an opportunity for us to educate via webinars, blogs, and other AICPA communications resources. Be on the lookout for these tools as we begin planning for 2022. For those jurisdictions that are still in session, the year-end report will capture all the data from this year and help position our policy recommendations.

Our year-end report and policy recommendations will be issued in the early fall, and we hope they will be a helpful guide as you begin planning your state's legislative strategy for 2022. Please reach out to me at [Marta.Zaniewski@aicpa-cima.com](mailto:Marta.Zaniewski@aicpa-cima.com) if I or my team can assist you.

Thank you.

**Marta Zaniewski**

## Uniform Accountancy Act adoption

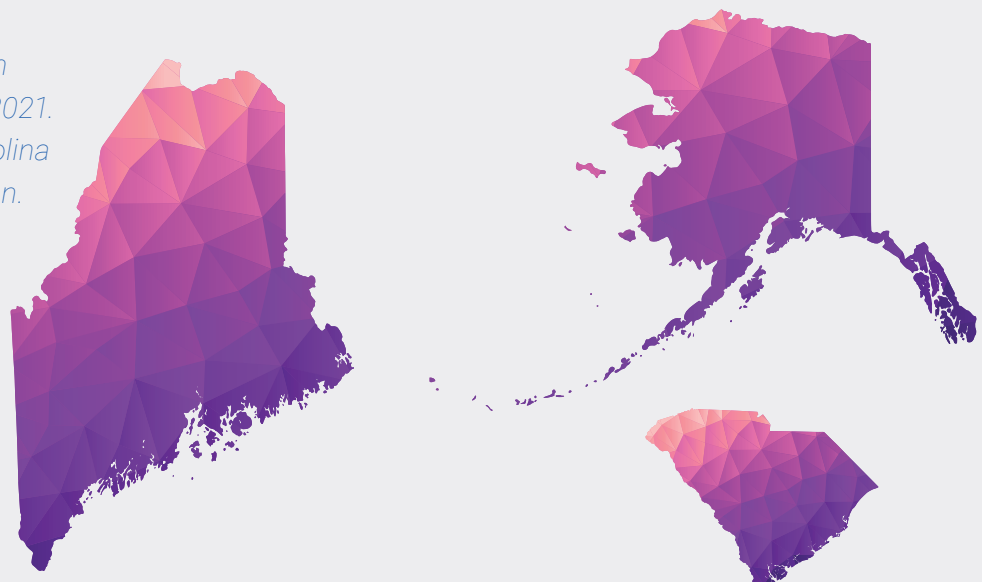
Uniformity of accountancy statutes and rules promotes ease in cross-border practice, consistency in compliance, regulatory oversight, and public protection. To assist in the adoption of uniform provisions in licensing jurisdictions, the AICPA works closely with state CPA societies, the National Association of State Boards of Accountancy (NASBA), state boards of accountancy, and individual CPAs and CPA firms. Central reference points for the profession are the Uniform Accountancy Act (UAA) and Model Rules which serve as the bedrock of state-level uniformity.

Key UAA issues currently under consideration at the state-level include the adoption of CPA firm mobility, CPE reciprocity, and the AICPA Code of Professional Conduct. CPA firm mobility allows CPA firms to provide all services (including attest services) across state lines without having to register in each state in which they offer those services. As with individual mobility, firms operate under

a “no notice, no fee, no escape” law. While out-of-state firms would not need to provide notice to a state board of accountancy to provide attest services, nor need to register as an out-of-state firm, they would be subject to that board’s rules, regulations, and requirements – including those related to firm ownership and peer review. In this way, CPA firm mobility ensures strong regulatory protections for the public, while eliminating unnecessary compliance costs and fees. Currently, 30 jurisdictions have adopted CPA firm mobility. In 2021, Maine adopted legislation while Alaska and South Carolina considered firm mobility.

CPE reciprocity exempts CPAs who hold multiple state licenses from having to meet the individual CPE requirements of each state so long as the licensee meets the CPE requirements of their home state. While CPAs can avail themselves of the benefits of individual CPA mobility, there are circumstances in which a CPA

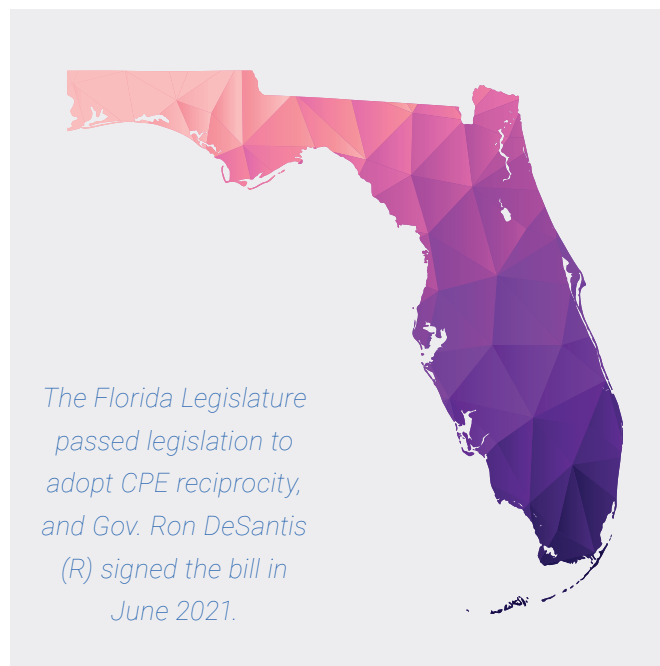
*Maine adopted firm mobility legislation in 2021. Alaska and South Carolina considered legislation.*





may choose to continue to hold multiple licenses. Because this exemption encourages uniformity while removing unnecessary burdens that do not play a role in protecting the public interest, the AICPA and NASBA are encouraging state boards of accountancy to adopt this provision of the UAA Model Rules. Thirty-seven licensing jurisdictions have adopted this exception. This year, the Florida Legislature passed legislation to adopt CPE reciprocity, and Gov. Ron DeSantis (R) signed the bill in June 2021.

Finally, the AICPA and NASBA are promoting the uniform adoption of the AICPA Code of Professional Conduct. Uniformity of ethics and independence standards is necessary to facilitate compliance with the rules, protect the public, and to promote sound business practices. The current inconsistency across state lines can be confusing and problematic for licensees.



# Occupational licensure

Over the years, there has been an increase in efforts to ease, at the very least, or eliminate, at the worst, the regulation of licensed occupations. The CPA profession, as with all professions, must defend the legitimacy and efficacy of state licensure against threats to reduce or eliminate occupational licensure. States' efforts to curb regulations come in a variety of forms.

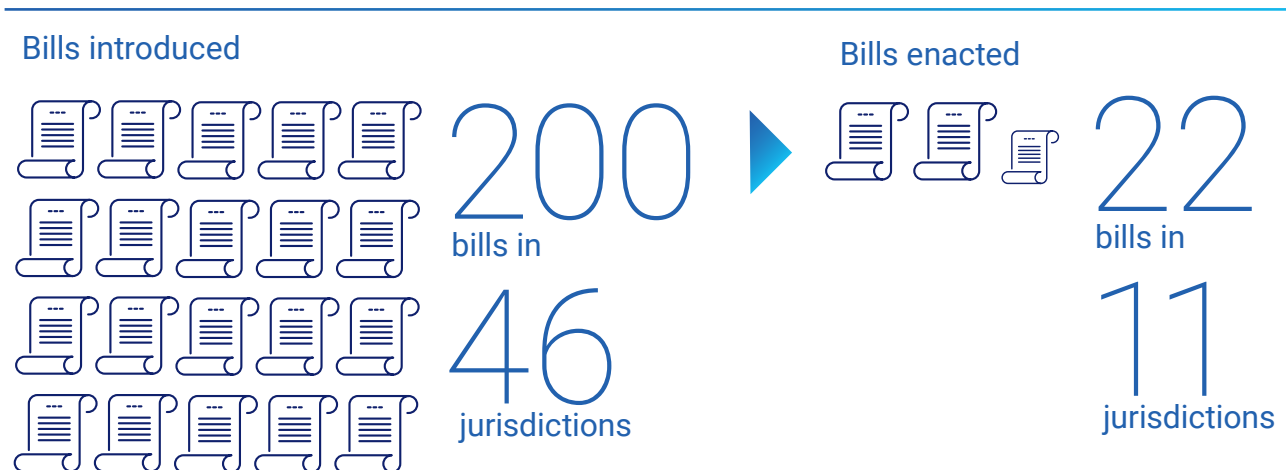
The three types that were seen the most in 2021 are universal licensing bills, sunset reviews, and military licensing bills:

- *Universal licensing bills allow individuals who are licensed in the same occupation, and are in good standing, to automatically be eligible for licensure in other jurisdictions.*
- *Sunset reviews create an evaluation of the need for the continued existence of an agency and often include harmful language against professions that use certifications.*
- *Military licensing bills ease the licensing process for military members and their spouses.*

In addition to these threats, states have also been looking at regulatory consolidation to save money and create certain economies of scale.

AICPA tracked over 200 bills in 46 jurisdictions that eased regulatory restrictions in some capacity during the 2021 legislative sessions. Of those, only 22 bills in 11 jurisdictions were enacted. Anti-regulatory efforts were defeated throughout the country thanks to the tireless efforts of state societies.

In West Virginia, a coalition of national trade associations, local state societies, national licensing agents, and local licensing boards, led by the West Virginia Society of CPAs, came together and defeated HB 2007, a bill that called for the least restrictive means in licensing occupations. In Iowa, the Iowa Society of CPAs led an effort to have the troubling "least restrictive means" language removed from SF 487. Additionally, there were no versions of the Consumer Choice bill introduced in any jurisdiction in 2021.



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# Key state tax legislation

Several tax issues grabbed lawmakers' attention in the first six months of the 2021 legislative sessions throughout the 50 states, in particular, taxes on professional services, partnership audits, and mobile workforce.

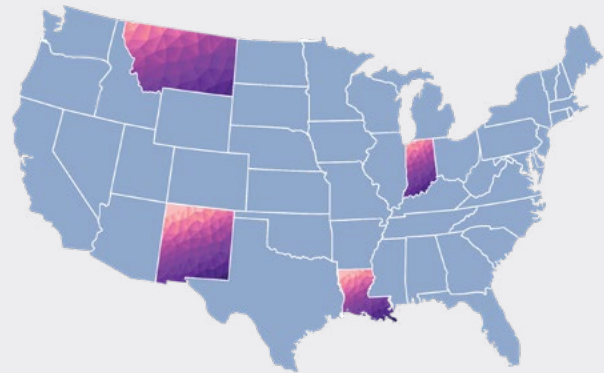
## Taxes on professional services

Taxes on professional services legislation was introduced in 2021 in Louisiana, Nebraska, Oregon, West Virginia, and Wyoming. West Virginia saw the biggest fight with Gov. Jim Justice (R) introducing various forms of his own bill and the Legislature introducing its own. West Virginia proved to be a significant case study in how the state society worked with lawmakers and other interested parties to essentially "kill" the legislation.

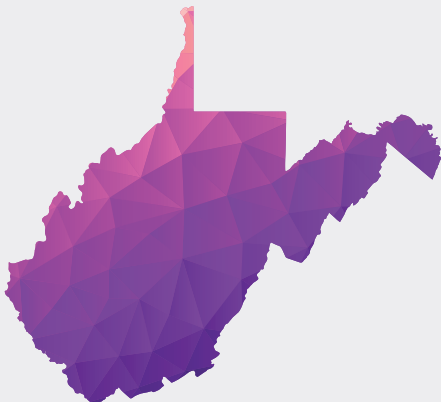
The West Virginia CPA Society members wrote countless letters to lawmakers regarding the negative effects of taxing accounting services along with many other state-based groups coming out in opposition to the bills. In

the end, the Governor's proposal was struck down with a vote of 0–100 in the House of Delegates. The Louisiana taxes on services bill died with the end of the legislative session. It would have cast a broad brushstroke and allowed taxing of a multitude of services, including accounting services.

*Indiana, Louisiana, Montana, and New Mexico governors signed partnership audit legislation that is aligned with the MTC model legislation.*



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## Partnership audits and mobile workforce

Partnership audits are once again a legislative priority in states this year. This year, governors in Indiana, Louisiana, Montana and New Mexico signed partnership audit legislation that is aligned with the Multistate Tax Commission (MTC) model legislation. Indiana Gov. Eric Holcomb (R) signed the partnership audit legislation, securing a key victory for the Indiana Society of CPAs. Though we track mobile workforce primarily at the federal level, it should be noted that West Virginia did pass legislation this year.

## Other tax victories in 2021

On Feb. 12, the Alabama Society of CPAs (ASCPA) initiated the first bill signed by the Governor Kay Ivey (R). The Alabama Taxpayer Stimulus Freedom Act would ensure that federal stimulus funds derived from the CARES Act and coronavirus relief legislation are not subject to state income taxes. House Bill 170 passed in large part due to ASCPA members and staff who worked closely with the Alabama State Department of Revenue.

The Pennsylvania Institute of CPAs (PICPA) worked diligently with lawmakers on the PICPA Fiscal Responsibility Task Force and reported to the Tax Modernization and Reform subcommittee in the House Finance Committee. PICPA is known for its expert guidance and solutions to lawmakers, and representatives made note of that fact during the hearing with Committee Chair Mike Peifer noting the Committee's reliance on the Institute.



## Contract Monitoring legislation

Contract monitoring legislation has once again reared its head. A number of states have introduced traditional legislation that allows for states that contract with certain service providers to monitor keystrokes, mouse clicks, and take screenshots to collect data on contractors' use of time on key projects contracted with the state. This year, one key difference with some of the legislation introduced was study and pilot program bills, which are equally as concerning. Minnesota, Montana, New Jersey, Pennsylvania, Rhode Island, and West Virginia all introduced this kind of legislation and study programs. The Virginia Department of Human Resource Management issued a report striking down the need for

State CPA societies have worked diligently in the past six months to ensure that these bills do not move forward.

contract monitoring services and states were able to quickly strike the bills down or stall them in committee. State CPA societies have worked diligently in the past six months to ensure that these bills do not move forward.

## Non-compete legislation

Another trending issue the AICPA State Regulatory and Legislative team saw in 2021 is the introduction of non-compete legislation. The legislation would create a near-total ban on noncompete agreements, causing unintended consequences for CPA firms regarding the professions' independence rules.

The most restrictive legislation occurred in Washington, D.C. On Jan. 11, 2021, Mayor Muriel Bowser signed the Ban on Non-Compete Agreements Amendment Act of 2020, and it took the business community by surprise. The legislation went well beyond laws enacted by other jurisdictions to curtail the use of post-employment noncompete agreements. When the act was originally introduced, it was aimed at insulating workers making less

than three times the minimum wage from being required to sign noncompete agreements.

By making noncompete unenforceable against employees below a certain income floor, the bill protected lower-wage employees from being forced to sign non-competes to keep their jobs. This approach traced the path taken by several other states to curtail the use of non-competes. Before putting the bill to a vote, however, the D.C. Council changed direction by removing the income cap from the bill and allowed non-competes to during and post-employment. The version approved by the Council and signed by the mayor amounts to an all-out ban on agreements and policies that contain noncompete provisions.



Non-competes often pose a problem for the profession, as they chip away at the independence rules for CPAs to perform their legal and professional duties. It would be a violation of federal, state and professional standards for an employee to work for a firm that was doing an audit on a company, and have that same employee also work for the company for which the audit was being done. Simply put, working for a CPA firm and at the same time working for a client, does not meet the standard of independence for the CPA profession.

The profession has established guardrails to ensure proper and ethical practice for the larger interest and trust of the public. If this type of legislation continues to be proposed, we will support clarifying language and amendments that keep in place legal and ethical standards for CPAs. The concern for future non-compete

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legislation is that if the non-compete acts are written too narrowly, it can place members in potential violation of federal and state laws, and it would undermine the ethics of the CPA profession.





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